ORDINANCE NO. 21-47

AN ORDINANCE PERTAINING TO THE OLATHE WATER SERVICE RATES; AMENDING SECTIONS 13.12.020, 13.12.025, 13.12.040, AND 13.12.070 AND REPEALING THE EXISTING SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 13.12.020 of the Olathe Municipal Code is hereby amended to read as follows:

"**13.12.020 Contracts with Rural Districts.**

The ~~Governing Body of the~~ city ~~reserves the right to~~ ~~contract~~ may contract ~~do business~~ with rural water districts ~~on a contractual basis~~ to provide water service to customers within or outside the City boundaries."

SECTION TWO: Section 13.12.025 of the Olathe Municipal Code is hereby amended to read as follows:

"**13.12.025 Definitions.**

As used in this chapter:

"City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;

"City utility charges" shall mean charges related to the city's water, sewer, stormwater, and sanitation service;

"Customer" shall mean a person, firm, or corporation connected to the city's water and/or sewer system; or a person, firm, or corporation that is accessible to the city's sewer system; or a person, firm, or corporation receiving city utility and/or sanitation services;

"Commercial" shall mean any offices, warehouses, retail stores, beauty salons, restaurants, nursing homes, hotels, commercial laundry facilities and any non-residential customer not defined as an industrial customer;

"Industrial" shall mean any customer with an average annual water usage of 50,000 cubic feet per month or that is required to obtain an industrial sewer pretreatment permit by the administrative authority.

"Residential" shall mean as follows:

(1) "Single Family" shall mean any residential unit where each dwelling unit is served by an individual meter;

(2) "Multi-Family" shall mean any multiple dwelling units served by a single water meter;

"Timely" shall mean within the prescribed period of time as specified on the utility bill;

"Unified billing charges" shall mean charges related to the city's water, sewer, stormwater, and sanitation service;

"Winter usage" shall be defined as follows for the various classes of customers:

(1) "Single family residential" shall mean the 3 month average consumption shown on the billings ~~for~~ during the three (3) billing months during winter ~~of January, February, and March~~ of each year or the Olathe system winter average usage if the winter average is not available.

(2) "Commercial, Industrial, and Multi-family residential" shall mean the 3 month average consumption shown on the billings ~~for~~ during the three (3) billing months during winter ~~of January, February, and March~~ of each year or the customer actual usage if the winter average is~~f~~ unavailable."

SECTION THREE: Section 13.12.040 of the Olathe Municipal Code is hereby amended to read as follows:

"**13.12.040 Rates Outside City.**

(A) Retail consumers of city water delivered outside the city shall be charged at a rate adopted by the Governing Body of the City by

resolution. ~~1.25 times an amount equal the monthly water charged as calculated pursuant to Section 13.12.030.~~

(B) This section shall not be construed to apply to rural water district contracts or to those users located within ~~the~~ an Expansion Area as described within valid contracts ~~Exhibit B under an agreement dated March 21, 2000~~ with Water District No. 1 of Johnson County, Kansas."

SECTION FOUR: Section 13.12.070 of the Olathe Municipal Code is hereby amended to read as follows:

"**13.12.070 Purchase of Water from Water Hydrants - Procedure.**

(A) Fire hydrants are intended to be used for providing water for firefighting purposes and flushing and maintenance of the water supply system. At times, a fire hydrant may be approved to be used for a temporary water supply for commercial and industrial construction, road construction, development construction, special events, and filling of tanks when a permanent water supply is not needed or available. Hydrant connections shall utilize a backflow preventer or be properly air gapped to ensure public health and safety. Hose connections or filling chemical tanks are prohibited at the tank hauling location and a proper air gap shall be maintained. ~~Fire hydrants may only be used for the seasonal filling of swimming pools or as a temporary water supply for residential construction sites as set forth in this Section.~~

(B) *Application.* Whenever any person desires to buy water from a City-owned fire hydrant, the applicant shall make application therefor to the City Manager or designated representative for the City of Olathe, Kansas. Such application shall be made upon forms provided by the City Manager or designated representative and shall contain an agreement by the applicant to abide by and accept all the provisions of this Section of the Olathe Municipal Code as conditions governing the purchase of water from City-owned fire hydrants and the use of City-owned fire hydrant and metering devices.

(C) *Rates.* The rates for the purchase of water through City-owned fire hydrants shall be adopted by the Governing Body of the City by resolution.

(D) *Fire Hydrant Metering Devices.* No person shall obtain water from a City-owned hydrant without first installing and using a City-owned metering device to measure the quantity of water used. Application for use of a City-owned metering device shall be made on the same form as the application to buy water from a City-owned hydrant. The City Manager or designated representative may refuse to issue a water metering device in the event that the proposed use of the device constitutes an unreasonable risk of danger to the City's water supply system or to the health and safety of the City's citizens.

(E) *Fire Hydrant Metering Device - Deposit - Forfeiture.*

(1) Meters may be issued ~~for up to six months at a time when used~~ for a temporary water supply for commercial and industrial construction, road construction, development construction, special events, or the filling of tanks when a permanent water supply is not needed or available.

~~(2) Meters for residential use (filling of swimming pools, etc.) shall be issued for limited periods and shall be returned to the City of Olathe within forty-eight (48) hours of issuance. Meters for residential use may only be issued to City of Olathe water service customers.~~

(2) ~~(3)~~ A deposit shall be required for any person using a City-owned metering device. The deposit rates shall be adopted by the Governing Body of the City by resolution.

(3) ~~(4)~~ Such deposit shall be paid at the same time as the filing of the application to buy water from a fire hydrant.

(4) ~~(5)~~ The City shall keep a separate account of each deposit received, and shall pay interest according to the rate and conditions specified in K.S.A. 12-822 and all amendments thereto.

(5) ~~(6)~~ Any investments of security deposits shall be made in accordance with K.S.A. 12-1675, and amendments thereto.

(6) ~~(7)~~ Service deposits shall be non-transferable from one customer to another customer.

(7) ~~(8)~~ Upon termination of service the City will refund the deposit to the customer less any unpaid amounts due the City.

(8) ~~(9)~~ Any deposit may be refunded to a customer when, in the opinion of the Governing Body, the deposit is unnecessary in order to secure payment of the water bill.

(9) ~~(10)~~ Failure to return the meter at the end of the assigned issuance period ~~(48 hours residential use or six months commercial/industrial use)~~ shall result in the forfeiture of the deposit.

(F) *Late Payment Penalty.* Hydrant meter bills shall become due as established in Section 13.04.103 of the Olathe Municipal Code. Any customer failing to pay ~~his/her~~ the utility service bill shall be assessed a late payment penalty pursuant to the provisions of Section 13.04.103. Collection procedures and court action may be started on all bills remaining unpaid over ten (10) days after the due date.

(G) *Fire Hydrant Metering Device Estimation Fee (Commercial/Industrial Use Only).*

(1) Monthly readings will be called in by the 20th of each month to Customer Service.

(2) Failure to call in the monthly reading by the 20th of the month will result in estimating the usage and assessing an estimation fee to the bill. The estimation fee shall be adopted by the Governing Body of the City by resolution.

(H) *Damages to Metering Device or Other Property and Failure to Return.*

(1) The applicant shall be responsible for the proper use of the metering device and shall be held liable for any damages thereto.

(2) The applicant shall also be held responsible and liable for all damages to the persons and property resulting from ~~his/her~~ the applicant's negligent or willful acts in purchasing water from and in using the City's fire hydrants.

(3) Upon failure to return a meter, the City Attorney shall institute such proceedings, in the name of the City in any court having jurisdiction over such matters to recover the metering device."

SECTION FIVE: Existing Sections 13.12.020, 13.12.025, 13.12.040, and 13.12.070 are hereby repealed.

SECTION SIX: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this 21st day of September, 2021.

SIGNED by the Mayor this 21st day of September, 2021.

John W Bacon (Sep 22, 2021 08:57 CDT)

Mayor

ATTEST:

Brenda D. Long

City Clerk

CITY OF OLATHE OFFICIAL SEAL STATE OF KANSAS

(SEAL)

APPROVED AS TO FORM:

City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.

STATE OF KANSAS
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of **THE GARDNER NEWS** A weekly newspaper printed in the State of Kansas, and published in and of general circulation in Johnson County, Kansas and that said newspaper is a bi-weekly published at least weekly, 52 times a year; has been published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office in Gardner, Kansas in said county as second class matter.
That the attached notice is a true copy there of and was published in the regular and entire issue of said newspaper for 1 consecutive weeks(s),
The first publication there of being made as aforesaid on Sept 29, 2021
Publications being made on the following :

EDITOR----------

SUBSCRIBED AND SWORN TO ME THIS : October 1, 2021

NOTARY PUBLIC

RHONDA K. HUMBLE
NOTARY PUBLIC
STATE OF KANSAS

MY COMMISSION EXPIRES 5-11-2022

COST----------

ADDITIONAL COPIES----------

IN THE DISTRICT COURT OF JOHNSON, COUNTY KANSAS----------

The within Proof Of Publication approved

----------JUDGE

PUBLICATION SUMMARY OF ORDINANCE NO. 21-47, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 21st DAY OF SEPTEMBER 2021.

SUMMARY

On September 21, 2021, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 21-47 making amendments to the Chapter 13.12 of the Olathe Municipal Code pertaining to Water Service Rates.

The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address http://www.olatheks.org/government/city-clerk/public-notices, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.

This summary is certified this 22nd day of September, 2021.

/s/ Christopher M. Grunewald
Christopher M. Grunewald
Deputy City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.

Public Notice

First published in *The Gardner News* Wednesday, Sept. 29, 2021

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/s/ Christopher M. Grunewald
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