

(Published in the Topeka Metro News September 2, 2009)

ORDINANCE NO. 19300

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code §§ 146-26, 146-28, 146-32, 146-35, 146-46, 146-47, 146-78, 146-79, 146-81, 146-82, 146-83, 146-102, 146-136, 146-148, 146-151 and specifically repealing said original sections; creating §§ 146-9, 146-10, 146-16, 146-20, 146-138, 146-140 and 146-152; and repealing in their entirety §§ 146-27, 146-29, 146-38, 146-48, 146-50, 146-76, 146-77, 146-80, 146-99, 146-141, 146-144, 146-145, 146-146 and 146-150 all concerning the water, water pollution control, and stormwater utility.

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

Section 1. That Chapter 146, Article I, Division 2, Utility Rates, of The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-9, which said section reads as follows:

Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Customer or Consumer means any person, for-profit or not-for-profit organization, firm, association or corporation, or political or taxing authority receiving city utility materials, equipment and/or services provided by the city's water, wastewater and stormwater utility.

Section 2. That Chapter 146, Article I, Division 2, Utility Rates, of The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-10, which said section reads as follows:

Water, water pollution control, and stormwater utility.

30 (a) The City Council of the City of Topeka, Kansas hereby authorizes the
31 combination of the city's water and water pollution control utility and the city's stormwater
32 utility into a single utility to be known as the water, water pollution control, and stormwater
33 utility of the City of Topeka, Kansas.

34 (b) The city manager is hereby authorized to take such further actions as may be
35 necessary to effectuate the creation of such water, water pollution control, and stormwater
36 utility herein authorized and the mayor and city clerk are hereby authorized to execute any
37 and all documents necessary to effectuate such purpose.

38 (c) The utility rates provided in this division for the water, water pollution control,
39 and stormwater utility shall be set by the governing body to provide for the payment of the
40 costs of operating and maintaining the water, water pollution control, and stormwater utility
41 and paying the principal of and interest on all bonds and other obligations of the water,
42 water pollution control, and stormwater utility in order that such utility rates of the water
43 division, water pollution control division, and/or stormwater division of the water, water
44 pollution control, and stormwater utility not be set or otherwise established so that the utility
45 rates of one such division subsidize the other.

46 (d) The revenues of the water, water pollution control, and stormwater utility are
47 hereby pledged to the payment of any revenue bonds or other obligations issued or
48 incurred by the city in connection with the city's water, water pollution control, and
49 stormwater utility.

50 (e) The public works director shall establish a central utility billing office,
51 administered by the water division, for billing and collecting all utility charges imposed by
52 the combined water, water pollution control, and stormwater utility of the City of Topeka,

Kansas. Furthermore, the city may contract with other local, public utilities to provide such entities with billing and collection services.

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-16, which said section reads as follows:

Utility rates for non-occupied structures under construction.

City utility accounts established for residential , commercial and industrial structures which are both non-occupied and under construction may be charged for actual monthly water consumption at the rate charged per 1,000 gallons over minimum, as provided for in the retail water rates section of this division. Wastewater charges shall be based on such actual water consumed. Such charges shall be assessed for inside city structures only. No minimum bill charges for either water or wastewater, as provided for in this division, shall apply. The ERU rate shall apply to such structures.

The water superintendent shall have final determination as to whether a structure qualifies for such non-occupant water utility rate. The water pollution control superintendent shall have final determination as to whether a structure qualifies for such non-occupant wastewater utility rate.

Section 4. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-20, which said section reads as follows:

Rates for water consumed from fire hydrants.

All water consumed from a fire hydrant located within the city shall be billed at the established inside city commercial rate. All water consumed from a fire hydrant located outside the city shall be billed at the established outside city commercial rate. The fire

department shall not be billed for any water consumed from a fire hydrant for firefighting or fire training purposes.

Section 5. That section 146-26, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Consumer* means a person receiving and paying for city water passing through an individual meter located in the service line by means of which the person receives such water.~~

City Water Service Line means only the section of water pipe that connects to the water main and extends to the city's water meter for that property. The City Water Service Line does not include any section of water pipe that extends from the city's water meter to the structure, premises or yard hydrant being served or any portion of water pipe on private property.

Customer Water Service Line means only the section of water pipe that connects from the city's water meter for that property and extends to the structure, premises or yard hydrant being served on any portion of water pipe on private property by means of which potable water is furnished to the customer.

Water Mains means the water pipes, including fittings and equipment, used to distribute water throughout the territory served by the city's potable water supply system of the city and to by which the services of water is provided to the ultimate water consumers

are attached customers. Water Mains are owned by the city and are located on public property, public right-of-way or on property over which the city has an easement.

Section 6. That section 146-27, Construction of facilities; sale of water; control by council, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Construction of facilities; sale of water; control by council.~~

~~The city may construct facilities, improvements or extensions within or without the city and may sell or dispose of water within or without the city. The city may prohibit or limit the resale of water the city sells. All water lines or facilities located in or on public rights-of-way, roads, streets, lands or easements and which carry water of the city-owned water plant shall be exclusively subject to regulation by the city council.~~

Section 7. That section 146-28, Water superintendent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Water superintendent.

(a) *Position created.* There is hereby created the position of water superintendent in the city. The water superintendent shall have charge of the waterworks and all property connected therewith, and shall manage and control the waterworks under the authority to manage and control the city's water utility subject to the supervision of the director of public works.

(b) *Specific duties, and responsibilities and authority.*

(1) The water superintendent is responsible for directing the total operation of the water utility; oversees the inspection and maintenance of facilities; hiring, firing and training of employees (union/nonunion); is involved in negotiating the union contract; and personally directs staff.

(2) The water superintendent initiates and supervises the development of plans for new facilities at the treatment plant; authorizes installation of water mains; oversees preparation of plans and specifications and compilation of cost estimates; negotiates contract terms; conducts the backflow prevention and cross connection control program, and oversees plans for infrastructure ~~in the older sections of the city~~reconstruction, repair or replacement.

(3) The water superintendent prepares the water ~~and streetlighting~~ division budgets and administers the funds; is responsible for the internal accounting systems, ~~computerized water~~combined utility billing and collection systems; and oversees all purchases.

(4) The water superintendent coordinates the ~~waterworks~~ utility operation with federal, state and other regulatory agencies and is responsible for distribution of water to all qualified ~~consumers including townships and rural water districts~~customers.

(5) The water superintendent prepares/reviews all water division ordinances and/or resolutions prior to presentation to the director of public works; screens state legislative material which might affect a water utility; serves on committees and is active in various associations within the ~~waterworks~~ utility field.

(6) The water superintendent shall have the authority to make account adjustments, settle contract disputes, and write off accounts related to the utility billing system and accounts receivable for the purpose of correcting errors, settling disputed accounts, and inducing prompt payment for any amount up to \$10,000.00.

Any account adjustments, write offs, contract disputes or settlement of disputed accounts exceeding \$10,000.00 shall be approved by the city council.

~~(c) *Required knowledge, abilities and skills.* The water superintendent shall possess considerable knowledge of the principles and practices of water utility management; good knowledge of the principles of planning and financing of public water utilities; good knowledge of the principles and practices of the design, construction and operation of public water utilities; some knowledge of federal and state laws and agencies involved in the production, distribution and testing of water; and some knowledge of the principles and practices of administering and directing the activities of technical, skilled, unskilled and clerical personnel in a municipal utility. The water superintendent shall have the ability to apply concepts of management to departmental operation; to supervise and inspect construction, maintenance and repair work on water system facilities and equipment; to supervise the proper operation and maintenance of water facilities; to establish and maintain effective working relationships; and to prepare and interpret technical and general reports. The water superintendent shall have skill in the application of concepts of management to water utility operations; in providing leadership and direction to utility personnel; and in planning and implementing programs to satisfy the city's need for potable water.~~

~~(d) *Desired training and experience.* The water superintendent must have ten years' administrative experience in a water or similar utility. Administrative experience shall include, but not be limited to, budget control, personnel management and operational experience. Formal training is preferred in addition to experience in the area of public works, water resources or related fields.~~

167 ~~(e) — *Bond.* The water superintendent shall give a good and sufficient surety~~
168 ~~company bond to the city in the sum of \$5,000.00, conditioned for the faithful discharge of~~
169 ~~the duties of the office and to save the city harmless from all loss caused by neglect of duty~~
170 ~~or malfeasance in office.~~

171 Section 8. That section 146-29, Extension of mains; surcharges, of The Code of
172 the City of Topeka, Kansas, is hereby repealed.

173 **Extension of mains; surcharges.**

174 ~~The council, before making any water main extension, may require contracts, bonds~~
175 ~~or other evidence of future use insuring to the city a reasonable additional income~~
176 ~~therefrom. The city may make a water rate surcharge to water consumers, within or without~~
177 ~~the city, served by any water line extension made by the city, or the city may make a cash~~
178 ~~connection charge to property owners based on a linear foot cost of such water line~~
179 ~~extension to reimburse the city for the cost of such extension.~~

180 ~~Such surcharge, if made, shall be for a specified period of years, and shall be~~
181 ~~calculated to return to the city no more than the cost of such extension, plus reasonable~~
182 ~~interest charges thereon.~~

183 Section 9. That section 146-32, Application for water service and connection fee,
184 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

185 **Application for city water service line and connection fee.**

186 Any person requesting a new city water service line connection must first make
187 application with the office of the water division by completing the application form provided
188 by the water division. The person requesting city water service will be required to schedule
189 a final inspection and water activation with the water division.

190 An application will not be processed unless and until all outstanding debts, if any,
191 due to the City of Topeka, including the combined water, wastewater and stormwater utility
192 are paid in full, whether such obligation is for unpaid accounts, charges, services,
193 equipment or materials.

194 Each person requesting a new city water service line connection to the water
195 distribution system shall pay all connection costs ~~and other rates, charges, deposits, and~~
196 ~~fees established by law~~ which include water system fees, water service installation fees, tap
197 fees, and other charges, as applicable. ~~The connection fee shall be paid at the time of~~
198 ~~application for water service.~~

199 A new city water service line connection shall require the installation of a ~~city~~ water
200 meter meeting specifications determined by the ~~public works director or designee~~ water
201 superintendent. ~~Master water meters for wholesale customers shall also meet~~
202 ~~specifications determined by the public works director or designee.~~ Such meters shall be
203 installed at the expense of the property owner and thereafter owned and maintained by the
204 city. All city water service line installations shall be in accordance with the provisions of
205 City of Topeka Code §146-80.

206 ~~Water connection fees shall be determined by the public works director or designee~~
207 ~~and reviewed and adjusted if necessary at least every five (5) years. Such fees shall be~~
208 ~~based on connection costs, the system's value, capacity and demand factors.~~

209 ~~At the discretion of the chief administrative officer or city council, the water~~
210 ~~connection fees authorized in this section may be waived or modified for economic~~
211 ~~development projects which offer extraordinary benefits to the city. The chief administrative~~
212 ~~officer shall be authorized to grant a waiver of up to twenty-five percent (25%) of the fees.~~

City council approval shall be required for any waiver in excess of twenty-five percent (25%).

Section 10. That section 146-35, Work by licensed plumbers only, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Work by licensed plumbers only**Persons or companies who can install city water service lines or water meter service.**

(a) City water service line. No person shall install any city water service line unless the person shall be a duly licensed contractor to perform work in the City's right-of-way or city employees under the direction of the water superintendent. Service taps to water mains shall only be performed by city employees under the direction of the water superintendent or duly licensed plumbing contractors under the direction of the water superintendent.

(b) Water meter service. No person shall install any water line or meter service or ~~deperform~~ any work permitted by the terms of this article in the city unless the person shall be a licensed plumber in the city and duly licensed plumbing contractor, a licensed utility contractor engaged by the city to perform work on its behalf, or city employees under the direction of the water superintendent. Any such person shall faithfully comply with all the ~~terms and provisions of this article and all rules and regulations made pursuant thereto and will faithfully comply with all the terms and conditions of the city ordinances and water division policies~~ in reference to excavation and plumbing and all rules and regulations made in pursuance thereof and shall faithfully obey each and all the rules and regulations of the water division.

235 Section 11. That section 146-38, Water, water pollution control, and stormwater
236 utility, of The Code of the City of Topeka, Kansas, is hereby repealed.

237 **~~Water, water pollution control, and stormwater utility.~~**

238 ~~(a) The City Council of the City of Topeka, Kansas hereby authorizes the~~
239 ~~combination of the City's Water and WPC Utility and the city's stormwater utility into a~~
240 ~~single utility to be known as the water, water pollution control, and stormwater utility of the~~
241 ~~City of Topeka, Kansas.~~

242 ~~(b) The city manager is hereby authorized to take such further actions as may be~~
243 ~~necessary to effectuate the creation of such water, water pollution control, and stormwater~~
244 ~~utility herein authorized and the mayor and city clerk are hereby authorized to execute any~~
245 ~~and all documents necessary to effectuate such purpose.~~

246 ~~(c) The rates, fees, and charges of the water division, water pollution control~~
247 ~~division, and stormwater division of the water, water pollution control, and stormwater utility~~
248 ~~shall be set by the governing body to provide for the payment of the costs of operating and~~
249 ~~maintaining such divisions of the water, water pollution control and stormwater utility and~~
250 ~~paying the principal of and interest on all bonds and other obligations of the water, water~~
251 ~~pollution control, and stormwater utility in order that such rates, fees, and charges of the~~
252 ~~water division, water pollution control division, and/or stormwater division of the water,~~
253 ~~water pollution control, and stormwater utility not be set or otherwise established so that the~~
254 ~~rates, fees, or charges of one such division subsidize the other.~~

255 ~~(d) The revenues of the water, water pollution control, and stormwater utility are~~
256 ~~hereby pledged to the payment of any revenue bonds or other obligations issued or~~

~~incurred by the city in connection with the city's water, water pollution control, and stormwater utility.~~

Section 12. That section Chapter 146, Article II, Division 2, Deposit, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

DEPOSIT UTILITY ACCOUNT

Section 13. That section 146-46, Required, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Required Application.

~~Any person making application for water service shall complete an application on such forms as are provided by the water division, provide picture identification and social security number. The person making application also shall indicate any other person authorized to transact business on the account. Additionally, any person making application for water service shall pay a security deposit.~~

~~Security deposits are required as follows:~~

- ~~(a) \$15.00 Each unit Apartment Building/Condo~~
- ~~\$25.00 Single-family Residence~~
- ~~\$35.00 Business with no extra water equipment usage~~
- ~~\$50.00 Duplex or 2 residences on 1 service Master Deposit (Contractor)~~
- ~~\$100.00 Business with regular 5/8" or 1" service~~
- ~~\$150.00 Business/Commercial 1 1/2" service~~
- ~~\$200.00 Business/Commercial 2" service~~
- ~~\$300.00 Business/Commercial 3" service~~

~~The water division shall annually review payment records of customers who have a security deposit on file with the water division. If the water superintendent determines that the customer does not pose a credit risk, then the security deposit with any accrued interest shall be returned to the customer by way of a credit posting against that customer's account.~~

~~For purposes of evaluating credit risk, the superintendent shall consider the following:~~

~~(1) Customers who have established a record of delinquent or nonpayment of amounts due the water division in two successive billing periods or in three billing periods in an interval of 12 months.~~

~~(2) Customers whose checks have been returned by a lending institution to the water division in two successive billing periods or in three billing periods in an interval of 12 months.~~

~~(3) Commercial customers in initial business ventures expected to be substantial consumers of water and having no previous history or acceptable credit standing until a record of prompt payment is established.~~

~~Customers who have had their security deposits returned shall not be required to submit a second deposit in the event of a new service account for the same customer class.~~

Any person requesting a utility account shall make application with the water division and pay a security deposit when required. Security deposit amounts shall be established by the water superintendent and set forth on a schedule maintained by the water superintendent. Such security deposit amounts shall be sufficient to secure the city from

financial loss and based on customer credit history, when applicable. The water division shall return deposit amounts if service is discontinued or if customer credit history justifies return of deposit. The water superintendent shall have the authority to apply deposits, with any accrued interest, towards unpaid utility accounts.

Section 14. That section 146-47, Fund, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Deposits Fund.

The water superintendent shall keep a record of all deposits made with the water ~~superintendent division~~, together with the name of the depositor and the amount deposited, and such deposit shall be deposited by the superintendent with the city treasurer in a separate account within the water utility fund to be known as ~~water consumer's~~ customers' deposits; and shall pay to the depositor interest at the rate determined by the state corporation commission, such interest to be credited on January 1 succeeding such deposit and on January 1 thereafter and shall be payable at the water division in cash ~~on demand of the depositor or~~ credited on the water utility bill. Interest credited to the ~~water consumer's~~ customers' deposits shall be charged to the water utility fund. Any interest credited shall ~~be subject to call and payment at any time, but shall not draw interest.~~ Interest earned and received by the city on invested ~~water consumer's~~ customers' deposits shall be credited to the water utility fund. The fund shall be ~~deposited~~ maintained separately by the city treasurer ~~in a bank or trust company~~ and upon discontinuance of service the deposit shall be returned to the ~~consumer's~~ customer together with unpaid interest on the deposit at the current rate of five percent per annum established for each calendar year as prescribed by K.S.A. 12-822, as may be amended, provided all bills for ~~water~~ all city utility services

including water repairs or other service rendered shall have been paid by the consumer~~customer~~. Should the fund accumulate in a sufficient amount for investment, it shall be invested by the city treasurer in bonds of the city or in such other securities as prescribed by K.S.A. 12-822 and ~~approved by the council~~ K.S.A. 12-1675, as may be amended.

Section 15. That section 146-48, Default, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Default.~~

~~(a) Any water consumer who shall have made a deposit as provided in this division and shall refuse, neglect or for any other reason fail to pay a bill of the water division for water furnished, repairs made or other service rendered, shall forfeit any right to the return of the deposit and the accrued interest thereon, to the extent of the unpaid bill.~~

~~(b) When default shall have been made, as provided in subsection (a), the water division shall render an approved voucher, payable to the general water fund, and against the water consumer's deposit fund, for the amount of money due and unpaid, to the extent of the unpaid bill but not in excess of the deposit made by such water consumer and the interest accrued thereon, and any unappropriated portion of the water consumer's deposits shall remain without interest in the water consumer's deposit fund and held subject to the consumer's demand for payment of the residue thereof. The water division shall notify the consumer, at the consumer's last known post office address, of the amount of the deposit appropriated to the payment of the bill and that the residue will be paid to the consumer upon demand and surrender of the original deposit receipt.~~

Section 16. That section 146-50, Refund upon discontinuation of service, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Refund upon discontinuation of service.~~

~~Any water service customer who desires to discontinue water service and who has a security deposit on file with the water division with no outstanding balance may have the security deposit with accrued interest applied against the final bill or returned to the customer. The water service customer shall notify the water division of his/her choice at the time of final billing. If the water service customer does not notify the water division of his/her choice, then the water division will send a refund with accrued interest to the water service customer.~~

Section 17. That section 146-76, Definitions, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Definitions.~~

~~The following words and phrases, when used herein, shall have the meanings respectively ascribed to them:~~

~~*Water service line* means only the section of waterline that connects to the water main and extends to the water meter for that property. Water service line does not include any section of waterline that extends from the water meter to the structure, premises or yard hydrant being served or any portion of waterline on private property.~~

Section 18. That section 146-77, Applications and standards, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Applications and standards.~~

~~The water division or a licensed plumber shall install all water service lines. Prior to installation, application for a water service line installation will be made to the City of Topeka Public Works Department. An application will not be processed unless and until all outstanding debts, if any, due to the City of Topeka combined water, wastewater and stormwater utility are paid in full, whether such obligation is for unpaid accounts, charges, services or materials. All applicable permits must be posted at the job site before a service connection will be made. All water service line installations shall be in accordance with all applicable provisions of the City of Topeka Standard Technical Specifications, maintained by the engineering division and water service line installation standards maintained by the water division.~~

Section 19. That section Chapter 146, Article II, Division 4, Water Service Line, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

WATER SERVICE LINES

Section 20. That section 146-78, Size, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Size.

The size of each city water service line ~~must be approved by the water division, but no new water service line shall be installed of less than one (1) inch in diameter and~~ customer water service line shall be determined by the water superintendent. Any change in the size of the existing city water service line or customer water service line shall be at the expense of the property owner unless the change in size is in the benefit of the water division as determined by the water superintendent.

Section 21. That section 146-79, Specifications for materials, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Specifications for installation, materials and inspection.

All installations of and materials used for city water service lines, customer water service lines, and connections to the water meters or the City's water mains shall be in accordance with the City of Topeka and Shawnee County Standard Technical Specifications maintained by the engineering division and the City of Topeka Utility Services Installation Standards maintained by the water division.

The person requesting a new city water service line or customer water service line connection will be required to schedule a final inspection and water activation with the water division.

Section 22. That section 146-80, Installation, alignment, location and inspection, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Installation, alignment, location and inspection.~~

~~The alignment and location of all water service installations or relocation shall be in accordance with water service installation standards maintained by the water division and will be subject to inspection and acceptance by the water division before water service will be activated. Property owner will be responsible for all charges, services, and materials for water service installation or relocation.~~

Section 23. That section 146-81, Water service line termination/abandonment/replacement, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

City wWater service line termination/abandonment/replacement.

~~All water service lines connected to the water main are considered active, unless terminated by one of the following means:~~

~~a. A written request by the customer;~~

~~b. If the line is abandoned by the customer; or~~

~~c. If a replacement water service line is requested by the customer.~~

~~The water division will terminate the water service by disconnecting the water service line from the water main. There will be no charge to the customer for termination of water service.~~

~~A water service will be deemed abandoned if there is no water flow through the water meter or water service line for a period of twelve (12) months.~~

~~If a water service is considered abandoned, the water division will attempt to contact the property owner at least five (5) business days prior to termination of water service by mailing a notice of termination to the customer's address maintained by the water division or by posting a notice on the property of the pending service termination.~~

City water service line termination, abandonment and/or replacement shall be in accordance with water division policies established and maintained by the water superintendent.

Section 24. That section 146-82, Repair and responsibilities of property owner and city, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Repair and responsibilities of property owner and city.

~~(a)- The customer water service lines from the water meter to the structure, premises, or yard hydrant being served or any portion of waterline on private property shall be the responsibility of the property owner and shall be constructed, maintained, repaired or~~

replaced at the sole cost of the property owner. All installation or repair work shall be done as required by the ~~uniform~~currently adopted plumbing code and other appropriate ordinances.

~~(b)- All water service lines from the water main to the water meter located in the city's right-of-way or city or public utility easement shall be the responsibility of the water division and shall be repaired only by the water division.~~All customer water service lines which are not located on public property, public right-of way or easement shall be the responsibility of the property owner and shall be repaired or replaced at the sole cost of the property owner. All installation or repair work shall be done as required by the currently adopted plumbing code and other appropriate ordinances.

~~(c)- All waterlines from the water main to the water meter which are not located in the city's right-of-way or city or public utility easement shall be the responsibility of the property owner and shall be repaired or replaced at the sole cost of the property owner. All installation or repair work shall be done as required by the uniform plumbing code and other appropriate ordinances.~~Property owner shall be responsible for any expenses incurred by the water division for the repair to the customer water service line, including, but not limited to, any materials, equipment, service, or labor, including the repair to public property, streets, alleys or other public utilities caused by the property owner's negligent or intentional actions.

~~(d)- Property owner shall be responsible for any expenses incurred by the water division for the repair to a water service line, including, but not limited to, any materials, service, or labor, including the repair to public property, streets, alleys or other public utilities caused by the property owner's negligent or intentional actions.~~All city water service

lines shall be the responsibility of the water division and shall be repaired only by the water division.

Section 25. That section 146-83, Fire protection lines, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Fire protection lines.

Services for fire protection shall be fitted with such fixtures only as are needed for fire protection, and shall be installed entirely separate from all city water service lines and customer water service lines used for other purposes, and be kept entirely separate from all other such lines, except as provided in the ~~Uniform Code For Building Conservation (U.C.B.C.)~~ code currently adopted by the city or authorized by the water superintendent.

Any water pipeline which shall be installed as a fire protection line, either sprinkler systems or otherwise, ~~must be installed between the water main and meter,~~ and all valves or openings must be sealed by the water division and the seals shall not be broken, except in case of fire. Immediate notice of breaking of any seal must be given to the water division.

All services for fire protection lines and appurtenances located after the valve isolating the fire protection line from the water main shall be considered to be private fire service lines and shall be the responsibility of the property owner. It shall be the duty and responsibility of the property owner to keep the private fire service line in good repair. In the event the property owner fails to maintain the private fire service line, then the city may undertake the needed repair and assess the cost of repair to the real property serviced by the private fire service line.

Section 26. That section 146-99, Purchase, of The Code of the City of Topeka, Kansas, is hereby repealed.

Purchase.

~~Meters may be purchased from the water division at cost.~~

Section 27. That section 146-102, Tampering, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Tampering.

~~No person shall make any repairs, reset, disconnect or make any change in meters without written permission from the water division, and no meter shall be reset without first being tested by the water division. All meters must be sealed when set.~~

It shall be unlawful for any individual to intentionally rearrange, injure, alter, interfere with or otherwise tamper with the city's public water supply system.

Section 28. That Chapter 146, Article II, Division 7, Rates and Charges, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

RATESFEES AND CHARGES

Section 29. That section 146-136, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

DefinitionsWater protection fees and clean drinking water fees.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Emergency service working hours* means all hours between 5:00 p.m. and 8:00 a.m. the next day, Monday through Saturday and all day Sunday.~~

~~*Non-service address* means an address outside the routed daily service area.~~

~~Normal office working hours means all hours the water division offices are open for public business, as established by the water superintendent and approved by the public works director. 8:00 a.m. to 5:00 p.m., Monday through Friday.~~

Water protection fees and clean drinking water fees shall be imposed, collected, and remitted by the water superintendent in accordance with K.S.A. 82a-954 and K.S.A. 82a-2101, as may be amended.

Section 30. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-138, which said section reads as follows:

Fees and charges.

Fees and charges for materials, equipment or services provided by the water division or for loss prevention shall be established by the public works director or his or her designee, and approved by the city manager, and set forth on a schedule of fees and charges maintained by the water superintendent. Such fees and charges shall be based on the following factors, including but not limited to, reimbursing the city for all costs associated with providing the materials, equipment or service and to protect the city from financial loss. The water superintendent shall have the authority to waive service fees and charges to correct errors and settle disputed accounts in accordance with City of Topeka Code 146-28.

Section 31. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-139, which said section reads as follows:

Water system fees.

Water system fees shall be determined by the public works director or his or her designee, and approved by the city manager, and reviewed and adjusted if necessary at

least every five (5) years. Such water system fees shall be set forth on a schedule maintained by the water superintendent. Such fees shall be based on the system's value, capacity and demand factors.

At the discretion of the city manager or city council, as applicable, the water system fees authorized in this section may be waived or modified for economic development projects which offer extraordinary benefits to the city. The city manager shall be authorized to grant a waiver of up to twenty-five percent (25%) of the fees. City council approval shall be required for any waiver in excess of twenty-five percent (25%).

Section 32. That section 146-141, Water protection fee, of The Code of the City of Topeka, Kansas, is hereby repealed.

Water protection fee.

~~(a) Established; amount. In addition to all retail (exempting wholesale) water rates and fees charged by the city water division, there shall also be charged a water protection fee in the amount of \$0.03 per 1,000 gallons of water and a public water supply fee in the amount of \$0.002 per 1,000 gallons of water sold.~~

~~(b) Collection. The water protection fee and public water supply fee shall be collected monthly by the water division. The water division shall in turn transmit to the state department of revenue, on a quarterly basis, all water protection fees and public water supply fees collected. Fees which are due and owing and uncollected shall be paid for by the water division and the water division shall be reimbursed upon collection of the outstanding balance.~~

Section 33. That section 146-144, Adjustment of rates, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Adjustment of rates.~~

~~This division applies only to the adjustment of rates for water used and does not nullify, adjust or terminate any other charges which are being charged to water consumers for the payment of bonds, service fees and any other comparable charges.~~

Section 34. That section 146-145, Rates for water only, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Rates for water only.~~

~~The rates set out in this division are the rates established for the payment for water. Surcharges shall be added by township or other legal entities for the payment of outstanding bonds, principal and interest, as required by bond covenants.~~

Section 35. That section 146-146, Rates for water consumed from fire hydrants, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Rates for water consumed from fire hydrants.~~

~~All water consumed from a fire hydrant located within the city shall be billed at the established inside city commercial rate. All water consumed from a fire hydrant located outside the city shall be billed at the established outside city commercial rate. The fire department shall not be billed for any water consumed from a fire hydrant for firefighting or fire training purposes.~~

Section 36. That section 146-148, Failure to pay; delinquent service fee, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

~~Failure to pay; delinquent service fee~~Delinquent utility account; restoration of water service.

(a) ~~If a water utility bill remains unpaid for 20 days after such bill has been mailed or delivered, account becomes delinquent, water service may be discontinued and shut off at the discretion of~~ pursuant to K.S.A. 12-808c and 12-860, as may be amended, and as defined in water division policies established and maintained by the water superintendent.

(b) ~~Water service shall not be discontinued or shut off until the consumer has been mailed a notice of five days in which to make full settlement or otherwise resolve the unpaid bill, except in case of fraud or leaving the city without notice. If consumers permit their water utility bill to remain unpaid for 40 days following date of mailing or delivery, the water division may, at its discretion, require deposits to be posted, or require present deposits to be increased to an amount determined by the water superintendent as sufficient to secure the city against loss.~~ Restoration of water service for delinquent utility accounts shall be in accordance with water division policies established and maintained by the water superintendent.

(c) ~~A delinquent service fee of \$20.00 per service disconnection shall be charged to all water customers due to the water being turned off for delinquent water utility bills. In all cases where the water has been turned off for delinquency, the entire amount of the bill, plus a delinquent service fee, shall be paid at the water division during normal office working hours before water will be restored.~~

Section 37. That section 146-150, Restoration of water service after payment of delinquency, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~Restoration of water service after payment of delinquency.~~

~~Restoration of water service for delinquent water bills which are paid by 5:00 p.m. shall be completed the same day payment is received.~~

Section 38. That section 146-151, Penalties for illegal water service, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Penalties for illegal Unauthorized water service.

~~When water service has been discontinued for delinquent water bills, water service shall remain discontinued until restored by authorized water division personnel. If water service is restored by unauthorized personnel an additional \$50.00 service fee shall be assessed to the service customer's account and the meter may be pulled.~~

~~In such cases where the water service is connected illegally through the use of an unauthorized meter, jumper, removal of meter register, or other means, the unauthorized services will be plated or crimped and the service customer will be charged a \$100.00 service fee and will be charged for all parts and labor necessary to restore the water service. All service fees will be assessed to the water utility bill. The water utility bill plus any service fees will be required to be paid in full before water service can be restored.~~

~~The water division shall commence work to restore service after full payment of the water utility bill and any service fees are paid on the same day payment is received and shall complete restoration of service within two working days.~~

Water service shall only be provided by authorized water division personnel or an authorized agent acting on behalf of the city. If a residence, business or other structure is determined to be connected to the city's water distribution system without authorization by the water division, an unauthorized water service fee may be assessed by the water superintendent plus any additional costs incurred by the division for the parts and labor to restore service. Water service shall only be restored upon payment in full of the unauthorized water service fee, costs for parts and labor, and any other applicable charges.

The amount of the unauthorized water service fee shall be established by the public works director or his or her designee, and approved by the city manager, based upon costs to secure the city from financial loss as determined and set forth on a schedule maintained by the water superintendent.

Section 39. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 146-152, which said section reads as follows:

Appeals.

Any appeal to the imposition of a fee or charge as provided for in this division shall be governed by the administrative appeal provisions contained in Topeka City Code Section 2-486 et seq., as may be amended.

Section 40. That original §§ 146-26, 146-28, 146-32, 146-35, 146-46, 146-47, 146-78, 146-79, 146-81, 146-82, 146-83, 146-102, 146-136, 146-148 and 146-151 of The Code of the City of Topeka, Kansas are hereby specifically repealed.

Section 41. 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 August 25, 2009.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk