

(Published in the Topeka Metro News December 23, 2013)

**ORDINANCE NO. 19869**

AN ORDINANCE introduced by City Manager Jim Colson, repealing City of Topeka Code § 13.05.070 and § 13.05.080, eliminating the gas and electric franchise fee refund program and the water and wastewater utility rate refund program.

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

Section 1. That section 13.05.070, Utility franchise fee refund program, of The Code of the City of Topeka, Kansas, is hereby repealed.

**Utility franchise fee refund program.**

~~(a) Established. There is hereby established a utility franchise fee refund program in the city of Topeka. Subject to the terms and conditions established herein, eligible gas and electric utility ratepayers in the city of Topeka may receive a refund of gas and electric franchise fees paid by the ratepayer for property located within the city.~~

~~(b) Eligibility. Commencing for the tax year of 2006 only those ratepayers who fit the income, age, dependents and other requirements of the state of Kansas Homestead Property Tax Refund Law, as amended from time to time, and actually receive a refund from the state of Kansas Homestead Property Tax Refund Program, as provided in K.S.A. 79-4501 et seq. (as amended), may receive franchise fee refunds as provided herein.~~

~~(c) Refund Procedure. Franchise fee refunds shall be issued pursuant to the following procedure:~~

~~(1) Application for a franchise fee refund shall be processed if received by the city on or before November 5th for 2008 and on or before September~~

~~5th for each subsequent year for refunds of franchise fees paid for the preceding calendar year.~~

~~(2) Applications shall be made on a form approved by the city of Topeka director of administrative and financial services and shall be accompanied by the following documents and information:~~

~~(i) Copy of the ratepayer's homestead property tax refund claim form or verification obtained by the city of Topeka director of administrative and financial services for the preceding calendar year for the residence for which gas and electric utility franchise fees have been paid.~~

~~(ii) Proof of payment or approval of a homestead property tax refund for the preceding calendar year for the residence for which gas and electric utility franchise fees have been paid.~~

~~(iii) Proof in a form acceptable to the city of Topeka director of administrative and financial services that franchise fees in the claimed amount have been paid by the ratepayer for the identified residence.~~

~~(3) Upon receipt of the required application, documents and information, the city of Topeka director of administrative and financial services shall, within 30 days, either issue a refund of the claimed franchise fees to the ratepayer or, if the refund application is rejected for any reason, notify the ratepayer of the reason for the rejection.~~

~~(4) A ratepayer whose application is rejected may appeal the rejection to the city of Topeka city manager, whose decision on the matter shall be deemed final and unappealable.~~

52           Section 2.     That section 13.05.080, Water and wastewater utility rate refund  
53 program, of The Code of the City of Topeka, Kansas, is hereby repealed.

54           ~~**Water and wastewater utility rate refund program.**~~

55           ~~(a) Established. There is hereby established a water and wastewater utility rate~~  
56 ~~refund program in the city of Topeka. Subject to the terms and conditions established~~  
57 ~~herein, eligible city utility customers, defined as those individuals who receive residential~~  
58 ~~water and/or wastewater utility services from the city of Topeka, may receive a refund of~~  
59 ~~the increase in the minimum monthly rate for water and wastewater utility rates paid by~~  
60 ~~the city utility customer to the city of Topeka. The water and wastewater utility rate~~  
61 ~~refund shall be the amount the minimum monthly rate exceeds that in effect for water~~  
62 ~~and wastewater on January 1, 2008.~~

63           ~~(b) Eligibility. Commencing January 1, 2012, only those city utility customers~~  
64 ~~inside or outside the corporate limits of the city of Topeka who during the prior tax year~~  
65 ~~fit the income and other requirements of the State of Kansas Homestead Property Tax~~  
66 ~~Refund Law, as amended from time to time, and actually receive a refund from the~~  
67 ~~State of Kansas Homestead Property Tax Refund Program, as provided in K.S.A. 79-~~  
68 ~~4501, et seq., as amended, may apply for water and wastewater utility refunds as~~  
69 ~~provided herein.~~

70           ~~(c) Refund Procedure. Water and wastewater utility rate refunds shall be issued~~  
71 ~~pursuant to the following procedure:~~

72                   ~~(1) Application for a water and wastewater utility rate refund shall be made~~  
73                   ~~by September 5th each year for the preceding tax year for which the city~~  
74                   ~~utility customer paid water and wastewater utility rates to the city of Topeka.~~

~~(2) Applications shall be made on a form approved by the city of Topeka public works director, or his or her designee, and shall be accompanied by the following documents and information:~~

~~(i) Proof that a homestead property tax refund claim form was filed and that a property tax refund was issued for the preceding calendar year.~~

~~(ii) Proof in a form acceptable to the public works director, or his or her designee, that the water and/or wastewater utility services were actually provided by the city of Topeka.~~

~~(3) Approval of Application.~~

~~(i) Upon receipt of the required application, documents and information, the city of Topeka public works director, or his or her designee, shall, within approximately 30 days, either issue a credit in the amount which the increase in the minimum monthly rate for water and wastewater utility rates exceeds those in effect on January 1, 2008, to the city utility customer, or may, in the sole discretion of the public works director, issue a check in the amount of the refund.~~

~~(ii) In the event the city utility customer has any delinquent or unpaid charges, fees, administrative monetary penalties, or other charges to any department or division of the city of Topeka, the amount of the refund will be set off against such outstanding charge, fee, or penalty.~~

~~(4) Rejection of Application.~~

~~(i) If the refund application is rejected for any reason, the public works director, or his or her designee, shall within that same 30-day period notify the city utility customer in writing of the reason for the rejection.~~

~~(ii) A city utility customer whose application is rejected may appeal the rejection in accordance with the appeal provision in Chapter 2.145 TMC.~~

~~(d) Effective Date. This section shall be in effect until September 5, 2016.~~

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on December 17, 2013.

CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

ATTEST:

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Brenda Younger, City Clerk