

## **TITLE 13**

### **WATER AND SEWERS**

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## CHAPTER 13.04

### WATER SERVICE REGULATIONS

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**13.04.010 Intent and Purpose.** The Governing Body of the City of Olathe, Kansas, hereby finds and declares that the provisions of this ordinance are enacted for the following reasons:

- (a) To ensure timely and complete payment of all city utility charges and all installments and surcharges arising from utility services supplied to customers;
- (b) To regulate termination of water services to customers for nonpayment of unified billing charges and/or installment surcharges;
- (c) To provide full and adequate notice to a customer of a termination of utility service to that customer and of the procedure to follow to avoid termination;
- (d) To provide customer with a fair and reasonable opportunity, prior to termination, to dispute the correctness of utility charges and/or installments and surcharges;
- (e) To standardize the contents of the city utility bill and other notices sent to customers;
- (f) To regulate termination of utility services to customers for nonpayment of utility charges and/or installments and surcharges during inclement weather;
- (g) To establish policies, procedures, and conditions governing utility service deposits. (Ord. 86-15 § 2, 1986.)

**13.04.020 Definitions.** As used in this ordinance. The following words and phrases shall be defined as follows for the purposes of this chapter and Chapter 13.08:

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

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

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

(4) "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;

(5) "Timely" shall mean within the prescribed period of time as specified on the utility bill. (Ord. 86-15 § 2, 1986.)

**13.04.030 Water Use On Premises Only.** No water shall be resold, distributed or supplied by the recipient thereof from the city supply to any premises other than the premises for which an utility service application has been made and approved. (Ord. 86-15 § 2, 1986.)

**13.04.040 Utility Service Contract and Application.** The rates, rules and regulations established in this chapter shall be a part of the contract with every person, firm or corporation supplied with utility service by and through the city's utility system, either within or outside of the city. Such person, firm or corporation by applying for or accepting water service shall be held and considered as consenting to be bound thereby, and in case of violation of this chapter or regulations promulgated under the provisions of this chapter, the water may be shut off from the premises or place of violation and not turned on again until the violation has been rectified, or if applicable, when satisfactory arrangements have been made with the city.

(a) Any person, firm or corporation desiring connection to the municipal utility service shall complete and submit to the city an "Utility Service Application and Agreement." The application and agreement shall request the following information:

- (1) The name and signature of the applicant;
- (2) The address to be supplied utility service;
- (3) The prior address of the prospective customer;
- (4) The name of the prospective customer, if different than the applicant's; and
- (5) The desired date for commencement of utility service.

(b) The application and agreement form shall also contain the following:

(1) Written acknowledgement by the prospective customer, that as the customer, he is responsible for the timely and complete payment of all utility charges and all installments and surcharges arising from utility service supplied to the premises identified in the application and agreement form.

(c) The utility shall inform the applicant if utility service shall be supplied to the residence. If utility service shall not be supplied, the utility shall prepare a notice stating the reasons why service shall not be supplied.

(d) Utility service shall not be supplied to any prospective customer if that person has any outstanding and unpaid utility charges and/or installments and surcharges arising from prior utility service to this prospective customer. (Ord. 86-15 § 2, 1986.)

**13.04.050 Utility Service Application Fee and Deposit.**

(a) An application for utility services shall include an application fee, the purpose of which is to off-set the administrative costs of conducting a credit history report. Such application fee shall be adopted by the Governing Body of the City by resolution.

(b) An application for utility service shall include a deposit, the purpose of which is to secure payment of city utility bills. Deposits required for the various types of customers shall be adopted by the Governing Body of the City by resolution.

Letters of favorable credit history will not be accepted in lieu of a security deposit. A deposit may be required from an existing customer, whose deposit had been waived or refunded in accordance with Section 13.04.080 of this ordinance, if the customer's service is scheduled for or is disconnected in any twelve (12) month period. (Ord. 08-85 § 1, 2008; Ord. 02-142 § 1, 2002; Ord. 86-15 § 2, 1986.)

**13.04.060 Receipt of Security Deposit.** Whenever a security deposit is accepted, the city will issue to the customer a non-assignable receipt containing the following minimum information:

- (a) Name of customer;
- (b) Date of deposit;
- (c) Amount of deposit;
- (d) Utility name and address, and signature of the utility employee receiving the deposit;
- (e) Statement of the terms and conditions governing the use, retention and return of deposits.

(Ord. 86-15 § 2, 1986.)

**13.04.080 Security Deposit Interest, Investment, and Refund.**

(a) 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.

(b) Investments of security deposits shall be made in accordance with K.S.A. 12-1675, and amendments thereto.

(c) Service deposits shall be non-transferable from one customer to another customer; however, upon termination of the customer's service at the service address, the city may transfer the deposit to the customer's new active account.

(d) Upon termination of service, the city will refund the deposit to the customer less any unpaid utility bills due the city.

(e) 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. (Ord. 87-30 § 29, 1987; Ord. 86-15 § 2, 1986.)

**13.04.100 Utility Bill and Service Charges.** An utility bill shall be mailed at least once each month to every customer for city utility services supplied during the time period shown on the bill. The utility bill will include water service charges, sewer service charges, charges for the collection and disposal of solid waste, and any miscellaneous charges shall be billed as additional items on the utility bills, and such charges shall be properly designated by symbol, adopted by the city designating water service charges, sewer service charges, solid waste disposal charges, and miscellaneous charges. Such charges shall be collected by the city treasurer as a part of the total bill rendered.

The city treasurer shall collect the total charge as a combined bill and shall not accept part payment of any specific item of water, sewer, sanitation, or miscellaneous charges.

Each bill shall contain the following information:

- (a) The time period and number of days of utility service covered the bill;
- (b) The charge and/or installment and surcharge due;
- (c) The date of the bill;
- (d) The date when complete payment is due at the utility, which shall be at least 15 days from the statement date of the utility bill; except in the case of a final bill, which is due upon the city rendering the bill.
- (e) Notice whether the utility bill is based on an actual or estimated measurement of the amount of utility service supplied;
- (f) Notice that an utility charge shown on an utility bill which is based on an actual measurement, and which follows one or more bills based on estimated measurements, may be substantially higher than previous utility bills and higher than the utility bills based on estimated measurements.
- (g) Notice that failure to timely and completely pay the amount(s) shown on the bill shall result in termination of service; and
- (h) Notice that customers may call the City's Utility Customer Service Center, whose telephone number shall be listed on the utility bill in order to:
  - (1) Dispute the amount of the charges and/or the installment and surcharge;
  - (2) Request the proper procedure to follow in the establishment of a deferred payment plan;
  - (3) Request the proper procedure to follow so as to avoid the termination of service for nonpayment of the amount(s) on the bill;
  - (4) Request the restoration of service; and
  - (5) Request answers to any other questions regarding utility service. (Ord. 86-15 § 2, 1986.)

#### **13.04.103 Late Payment Penalty.**

- (a) Utility service bills shall become due fifteen (15) days after being rendered. Any customer failing to pay his/her utilities service bill on or before the fifteenth day following the rendering of the bill shall be assessed a penalty of three percent of the total current bill.
- (b) For all utility service bills mailed before November 1, 1995, such bills shall be come due fifteen (15) days after being rendered.
- (c) Utility service bills shall become due twenty-one (21) days after being rendered. Any customer failing to pay his/her utilities service bill on or before the twenty-first day following the rendering of the bill shall be assessed a penalty of five percent of the total current bill less payments and credits.
- (d) For all utility billings mailed after November 1, 1995, such bills shall become due twenty-one (21) days after being rendered. (Ord. 95-79 § 1, 1995; Ord. 86-15 § 2, 1986.)

**13.04.104 Disconnection For Failure To Pay.** In instances of nonpayment of the utilities service bill within forty (40) days after the rendering of the bill, water service shall be disconnected and will be turned on only upon payment of all outstanding utilities service bills of the City of Olathe, together with the penalty provided, and a service call charge for the purpose of disconnection and/or or reconnection. The service charge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-142 § 2, 2002; Ord. 00-124 § 1, 2001; Ord. 88-93 § 1, 1988; Ord. 86-15 § 2, 1986.)

### **13.04.105 Standards For Water Service Termination.**

(a) The city may discontinue or refuse water service for any of the following reasons:

- (1) When the customer requests it;
- (2) When an utility bill becomes delinquent and after proper notice;
- (3) When the customer defaults on a deferred payment plan agreement;
- (4) When a dangerous condition exists on the customer's premises;
- (5) When the customer fails to provide the security deposit;
- (6) When the customer misrepresents his or her identity for the purpose of obtaining utility service;
- (7) When city personnel or their agents perform routine or needed water and sewer line maintenance, replacement, and inspections;
- (8) When the customer refuses to grant city personnel or their agents access, during normal working hours, to install equipment upon the premises of the customer, for the purpose of inspection, meter reading, maintenance, or replacement;
- (9) When the customer violates any provision of this chapter or any rule or regulation promulgated under this chapter, which violation adversely affects the safety of the customer or other persons, or the integrity of the city's water delivery or sewer system;
- (10) When the customer causes or permits unauthorized interference, or diversion or use of, water service situated or delivered on or about the customer's premises;
- (11) When the customer fails to pay for previous city utility service received at a separate location or residence;
- (12) When a check or other negotiable instrument previously applied to a customers utility account is returned to the city unpaid; and

(b) The following shall not constitute sufficient cause for the city to discontinue service:

- (1) the failure of the customer to pay a bill which has been validly and timely disputed; provided, however, that the customer pays that portion of the bill not in dispute. (Ord. 86-15 § 2, 1986.)

### **13.04.106 Water Service Termination Procedures.**

(a) The provisions of this section shall govern all terminations of water service for nonpayment of charges and/or installments and surcharges.

(b) If the city has not received complete payment of the amount(s) shown on the bill within (33) days after rendering of the bill, the city shall mail by U.S. Mail, first class, to the customer at the last known address of the customer as shown on the records of the city or by personal service upon the customer by an employee of the City Utility Department or by a city law enforcement officer, a service interruption notice.

(c) The service interruption notice shall contain the following:

- (1) Name of the customer and address where the service is being provided;
- (2) Account number;
- (3) The amount to be paid; including delinquency charges and past due charges;
- (4) The date of service interruption notice;
- (5) The date of termination, which shall be at least seven (7) days from the date of the service interruption notice;
- (6) Notice that unless the city receives complete payment of the amount shown prior to the date of termination, water service shall be terminated under Section 13.04.106(d);
- (7) Notice that, a customer, prior to the date of termination, may notify the city that he disputes the correctness of all or part of the amount shown, if all or part of the amount shown was not the subject of a previous dispute;

- (8) Notice that a customer may qualify for payment plan arrangements; and
- (9) Notice of the City's Utility Customer Service Center telephone number.

(d) The city shall terminate water service to the customer if prior to the date of termination.

(1) The city has not received complete payment of the amount shown on the Service Interruption Notice; and

(2) The customer has not requested, and the city has not established for the customer, a deferred payment plan; or

(3) The customer has not notified the city that he disputes the correctness of all or part of the amount shown on the service interruption notice, or the utility bill.

(e) If the city receives complete payment of the amount due shown on the service interruption notice prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this ordinance. (Ord. 86-15 § 2, 1986.)

#### **13.04.107 Limitations on Termination.**

(a) The utility shall terminate utility service for nonpayment of utility charges and/or installments and surcharges only during the hours of 9:00 A.M.- 5:00 P.M., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

(b) No terminations shall be permitted on a day when the low temperature as reported by the National Weather Service at its First Order Station nearest the premises, is below twenty-five degrees (25°) Fahrenheit. (Ord. 86-15 § 2, 1986.)

**13.04.108 Reinstatement of Water Service.** In the event of termination of utility service in accordance with the provisions of this ordinance, the utility shall reinstate utility service to the residential customer within twelve (12) hours of the utility's receipt of complete payment and of all service interruptions related charges. Such payment shall not be considered a timely payment for purposes of this chapter. (Ord. 86-15 § 2, 1986.)

#### **13.04.109 Customer Dispute and Hearing.**

(a) At any time before the date of termination of utility service for nonpayment of the amount(s) shown on an utility bill, a notice of rejection or a notice of termination, a customer may dispute the correctness of all or part of the amount(s) shown in accordance with the provision of this chapter. A customer shall not be entitled to dispute the correctness of all or part of the amount(s) if all or part of the amount(s) was (were) the subject of a previous dispute under Section 13.04.109.

(b) The procedure for customer disputes shall be as follows:

(1) Before the date of termination, the customer shall notify the utility, orally or in writing, that he disputes all or part of the amount(s) shown on an utility bill, a notice of rejection or a notice of termination, stating as completely as possible the basis for the dispute.

(2) If the utility determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amounts(s) shown, the utility shall notify the customer that the present dispute is untimely or invalid. The utility shall then proceed as if the customer had not notified the utility of the present dispute.

(3) If the utility determines that the present dispute is not untimely or invalid under Section 13.04.109 the utility, within five (5) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and an official of the utility.

(4) Based on the utility's records, the customer's allegations and all other relevant materials available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the utility and the customer.

(5) Within five (5) days of completion of the meeting, the official shall mail to the customer a copy of his decision resolving the dispute.

(6) If the decision is unsatisfactory to the customer, the customer, within five (5) days of his receipt of the official's decision, may request, in writing, a formal hearing before an utility hearing examiner.

(7) The formal hearing before the examiner shall be held within ten (10) days of the utility's receipt of the customer's written request.

(8) At the hearing the utility and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A tape-recorded (or at the option of the utility, a stenographic) record of the hearing shall be maintained.

(9) Based on the record established at the hearing, the examiner, within five (5) days of the completion of the hearing, shall issue his written decision formally resolved in the dispute. His decision shall be final and binding on the utility and the customer.

(c) Utilization of this dispute procedure shall not relieve a customer of his obligation to timely and completely pay all other undisputed utility charges and/or installments and surcharges, and the undisputed portion(s) of the amount(s) which is (are) the subject of the present dispute. Notwithstanding Section 13.04.109 (d), failure to timely and completely pay all such undisputed amounts shall subject the customer to termination of utility service in accordance with the provisions of this ordinance.

(d) Until the date of the hearing examiner's or the utility official's decision, whichever is later, the utility shall not terminate the utility service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount(s). If it is determined that the customer must pay some or all of the disputed amount(s), the utility shall promptly mail to, or personally serve upon the customer a notice of termination, which shall contain the following:

- (1) The amount to be paid;
- (2) The date of the notice of termination;
- (3) The date of termination, which shall be at least seven (7) days after the date of the notice of termination;
- (4) Notice that unless the utility receives complete payment of the amount shown prior to the date of termination, utility service shall be terminated, under Section 13.04.106 (d);
- (5) Notice that in lieu of paying the amount shown, an eligible customer, prior to the date of termination, may request the establishment of a deferred payment plan. (Ord. 86-15 § 2, 1986.)

**13.04.110 Hearing Examiner.** The city manager shall appoint a hearing examiner to carry out the responsibilities established under the provisions of this chapter. (Ord. 86-15 § 2, 1986.)

#### **13.04.120 Deferred Payment Plan.**

A. Any customer who is unable to timely and completely pay a utility charge, may request, orally or in writing, that the utility establish for her/him a deferred payment plan to enable her/him to pay the utility charge and to avoid termination of utility service.

B. The utility shall not establish a deferred payment plan based on a request by a customer that is not timely. A request is timely if it is received by the utility prior to the date of termination of utility service.

C. Upon receipt of an untimely request, the utility shall notify the customer of the untimeliness of the request. The utility shall then proceed as if the customer had not made the request.

D. Upon receipt of a customer's timely request for extension of time to pay (of less than fourteen (14) days) the utility shall discuss with the customer the exact payment requirements. Upon receipt of a customer's timely request for extension of time to pay (of more than fourteen (14) days) the utility shall require establishment of a written deferred payment plan, the utility shall discuss with the customer the exact payment requirements of the customer's deferred payment plan. Such deferred payment plan shall become effective only upon the utility's receipt of the customer's written acceptance of the payment requirements.

E. No written deferred payment plan shall be established that does not meet the following minimum payment requirements:

1. An initial payment of at least twenty-five percent (25%) of the utility charge that is the subject of the deferred payment plan, shall be payable at the time of the customer's written acceptance of the deferred payment plan; and
2. There shall be a maximum of three (3) monthly installment payments of at least twenty-five percent (25%) of the amount subject to the deferred payment plan, with the first such installment due thirty (30) days after payment of the initial payment.

F. When a payment by a customer is not sufficient to satisfy an installment payable under the customer's deferred payment plan and a currently payable utility charge, the payment shall first be applied to the installment and then to the currently payable utility charge.

G. In the event that the utility rejects a customer's request for the establishment of a deferred payment plan, for reasons other than the un-timeliness of the request, the utility shall mail to the customer a notice of rejection stating the following:

1. The reason(s) that the customer's request was rejected;
2. The date of the notice of rejection; and
3. The date that complete payment of the utility charge is due at the utility, which shall be the payment date shown on the utility bill or the date of termination shown on the notice of termination or at least five (5) days after the date of the notice of rejection, whichever is latest. (Ord. 10-49 § 1, 2010; Ord. 86-15 § 2, 1986.)

**13.04.150 Regulation.** The city manager or his designee is authorized to establish, after due notice and opportunity for interested parties to be heard, all written regulation necessary to implement the provisions of this ordinance. (Ord. 86-15 § 2, 1986.)

**13.04.160 Computation of Time.** In computing any period of time prescribed by this ordinance, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. (Ord. 86-15 § 2, 1986.)

**13.04.170 Separability.** The provisions of this ordinance are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and if such person or circumstance, to which the ordinance of part thereof is held inapplicable, had been specifically exempt therefrom. (Ord. 86-15 § 2, 1986.)

## CHAPTER 13.05

### WATER AND SANITARY SEWER SERVICE LINE CONNECTION REGULATIONS

#### Sections:

13.05.010	Definitions.
13.05.020	Water Use on Premises Only
13.05.030	Meter Test Fee
13.05.035	Hydrant Flow Test Fee
13.05.040	Theft of Water.
13.05.050	Utility and Meter Damage.
13.05.060	Meter - Required
13.05.070	Water Service Connection.
13.05.080	Sanitary Sewer Connection.
13.05.090	Maintenance Period

**13.05.010 Definitions.** The following words and phrases shall be defined as follows for the purposes of this chapter:

(1) 'City' includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors.

(2) 'City's Service Line' includes the water service line from the water main to and including the meter when the meter is set at the property line. When the meter is not set at the property line, a valve shall be placed at the property line and the city's Service Line shall include the water service line from the water main to and including the valve and the plumbing inside the meter vault, including the meter.

(3) 'Maintenance or replacement of water service connections' includes all necessary repairs or replacement of an existing water service connection as in the judgment of the city is necessary; however, the maintenance does not include the enlarging of any water service line without payment of the full charge for such larger size installation.

(4) 'Water Main' includes any public water main installed on public right-of-way or utility easement in accordance with city requirements and that has been accepted by the City as a public water main.

(5) 'Water Service connection' includes any connection of a private water line into the City's water system, including a fireline connection.

(6) 'Sanitary Sewer Service Line' includes the sewer service line from the building to and including the connection to the "Public Sanitary Sewer Main". The Sanitary Sewer Service Line shall be maintained by the owner of the property that it serves. Sanitary sewer service lines and connections to the Public Sanitary Sewer Main shall be constructed in accordance with the Plumbing Code and the city of Olathe Technical Specifications.

(7) 'Public Sanitary Sewer Main' includes sewers installed in accordance with the city of Olathe Technical Specifications for Sanitary Sewer Mains and dedicated to the city of Olathe. (Ord. 08-86 § 1, 2008; Ord. 06-89 § 1, 2006; Ord. 95-18 § 1, 1995.)

**13.05.020 Water Use On Premises Only.** No consumer shall supply water to other families, nor suffer them to take water off their premises; or after water is introduced into any building or upon any premises, shall any person make or employ any plumber or other person, to make any tap or connection with the pipes upon the premises, for alteration, extensions, or attachments, without permission of the city manager. (Ord. 95-18 § 1, 1995.)

**13.05.030 Meter Test Fee.** A customer may request a meter test be performed to determine the accuracy of their meter. A fee shall be charged to a customer who requests the testing of a meter and the test results indicate that the meter registers within the standards established by the American Water Works Association. Such fee shall be adopted by the Governing Body of the City by resolution. A meter test fee shall not be assessed if the test results indicate that the meter registers outside of the standards established by the American Water Works Association. The city shall inform the customer of the meter test results and the AWWA standards. (Ord. 02-143 § 1, 2002; Ord. 95-18 § 1, 1995.)

**13.05.035 Hydrant Flow Test Fee.** A hydrant flow test for commercial or industrial customers shall be performed upon payment of a testing fee. Such testing fee shall be adopted by the Governing Body of the City by resolution. The city shall inform the customer of the flow test results. (Ord. 02-143 § 2, 2002; Ord. 95-18 § 1, 1995.)

**13.05.040 Theft of Water.** It is unlawful for any person, persons or corporations to use, take or steal any water from the city, not metered or paid for, or to allow or permit any person, persons or corporations to use, take or steal water from their connections or fixtures in violation of any rules or regulations prescribed for the regulation and government of such works or plant, except water for extinguishing a fire. (Ord. 95-18 § 1, 1995.)

**13.05.050 Utility and Meter Damage.**

(A) It is unlawful for any person to destroy or damage any water pipe, hydrant or fountain in the city, or any of the appurtenances of any city utility system, or to open any hydrant, service pipe, stop cock or valve belonging to or connected with the city waterworks system, except where prior approval is obtained from authorized city personnel when necessary to permit modification or improvement of such utility system.

(B) It is unlawful for any person to damage, molest or in any way interfere with any water meter, meter box or meter box cover or to deposit dirt, stone or rubbish of any kind in any meter box or service box. (Ord. 95-18 § 1, 1995.)

**13.05.060 Meter - Required.** All water sold by the city shall be measured by meter. All meters shall be installed as provided in Section 13.05.070. Meters are not required for fire sprinkling systems. (Ord. 95-18 § 1, 1995.)

**13.05.070 Water Service Connection.**

(A) All new water service installations shall be made by a licensed plumber. A 'water service connection permit' must be acquired prior to installation. The water service connection permit shall not be issued prior to the issuance of a project completion certificate for the project providing service.

(B) The fee for the 'water service connection permit' shall be paid for by the applicant requesting the water service installation.

(C) Such water installation permit fee shall be adopted by the Governing Body of the City by resolution.

(D) The City's service line and installation of the entire service shall be in accordance with the water service connection instructions of the City.

(E) When the meter is set at the property line, the water service line from the main to and including the meter shall remain the property of, and shall be maintained by the City. The service line from the meter to the building shall be maintained by the property owner.

(F) When the meter is not set at the property line, the water service line from the main to and including the valve set at the property line and the water meter and setting shall remain the property of, and shall be maintained by the City. The service line from the valve set at the property line to the meter and from the building shall be maintained by the property owner.

(G) Domestic service connections shall connect onto a public water main and shall not be connected onto a fire sprinkler system or private fireline.

(H) Backflow preventers shall be provided as specified in Section 15.17.116 of the Olathe Municipal Code. (Ord. 06-89 § 2, 2006; Ord. 02-143 § 3, 2002; Ord. 95-18 § 1, 1995.)

#### **13.05.080 Sanitary Sewer Connections.**

(A) A permit shall be required for all new connections to the city of Olathe sanitary sewer system. All connections shall be made by a licensed plumber in accordance with city of Olathe Sewer Connection Specifications, Sewer Connection Inspection and the Plumbing Code. The sewer connection permit shall not be issued prior to the issuance of a project completion certificate for the project providing service.

(B) A permit fee for sanitary sewer connection shall be charged. Such permit fee shall be adopted by the Governing Body of the City by resolution.

(C) The city may require testing of the service line to insure compliance with the current plumbing code. The plumber shall supply the pipe, fittings, and water to perform this test.

(D) Failure to comply with the specifications will result in withholding the Occupancy Permit. (Ord. 06-89 § 3, 2006; Ord. 02-143 § 4, 2002; Ord. 95-18 § 1, 1995.)

#### **13.05.090 Maintenance Period.**

(A) The builder or applicant shown on the water and/or sewer connection permits shall be responsible for one (1) year for ground settlement and damage to the meter pit and/or meter due to grading or other construction activities. The one year period begins on the date of meter installation. The builder or applicant shall promptly perform, at their expense, any required maintenance to ensure compliance with city codes, policies, and regulations. (Ord. 95-18 § 1, 1995.)

## CHAPTER 13.06

### GRAVITY FLOW SEWER SERVICE LINES

#### Sections:

- 13.06.010 Environmental Protection Agency Requirements Acknowledged.
- 13.06.020 Definitions.
- 13.06.030 Construction--Requirements.
- 13.06.040 Construction--Prohibited When.
- 13.06.050 Administration--City Engineer Authority.

**13.06.010 Environmental Protection Agency Requirements Acknowledged.** The Governing Body of the City of Olathe, Kansas, acknowledges the requirements of the Environmental Protection Agency to control gravity flow sanitary sewer service lines within the Main No. 10 sewer district, below elevation nine hundred eighty-five feet. (Ord. 336 § 1, 1975.)

**13.06.020 Definitions.** As used in this chapter, the words and phrases herein defined shall have the following meanings:

(a) "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind;

(b) "Public sewer" means a common sewer directly controlled by the City of Olathe. (Ord. 336 § 3, 1975.)

**13.06.030 Construction--Requirements.** The city shall require that private sewers constructed for residential, commercial and industrial buildings in the Main No. 10 sewer district, the district determined under Resolution No. 1307, shall be constructed to provide for safe, continuous disposal of sewage in accordance with all applicable federal, state, and local regulations. (Ord. 336 § 2, 1975.)

**13.06.040 Construction--Prohibited When.** To insure the adequate, safe and sanitary disposal of waste water from buildings in Main No. 10 sewer district, no building shall be constructed which would have a sanitary sewer line entering said building at or below United States Geological Survey 985 elevation. (Ord. 336 § 4, 1975.)

**13.06.050 Administration--City Engineer Authority.** All requirements specified in Section 13.06.040 of this chapter shall be administered in accordance with rules, regulations and interpretations adopted by the city engineer. (Ord. 336 § 6, 1975.)

## CHAPTER 13.08

### SEWERS

#### Sections:

- 13.08.010 Definitions.
- 13.08.011 Wastewater Rates.
- 13.08.020 Service Charges.
- 13.08.030 Monthly Wastewater Charge--Determination of Flow.
- 13.08.040 Industry Standard Sewer Discharge Volume Credits.
- 13.08.050 Appeal of Assigned Use Category Strength or Volume Credit.

**13.08.010 Definitions.** As used in this chapter.

- (1) "City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;
- (2) "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;
- (3) "Timely" shall mean within the prescribed period of time as specified;
- (4) "Normal strength sewage" shall mean sewage with an average BOD5 between 100 mg/l and 264 mg/l and an average TSS between 100 mg/l and 300 mg/l;
- (5) "High strength sewage" shall mean sewage with an average BOD5 greater than 264 mg/l or TSS greater than 300 mg/l;
- (6) "Low strength sewage" shall mean sewage with an average BOD5 less than 100 mg/l;
- (7) "Sewer usage" shall be defined as follows for the various classes of customers:
  - (a) Single Family Residential shall mean the 3 month winter average water usage or the actual usage if less than the winter average usage, or the Olathe system winter average usage if winter average is not available.
  - (b) Commercial, Industrial, and Multi-Family Residential shall mean the total monthly water consumption unless; 1) a wastewater meter is installed to measure and record the actual amount of water discharged to the sewer system, or 2) for certain business classifications or types, where less than or equal to 90% of the water used is discharged to the sanitary sewer system, an industry standard volume credit has been developed for these users;
- (8) "Representative sample" shall mean a sample of the wastewater discharge from the facility that includes a representative portion of flow from the various processes;
- (9) "Certified Laboratory" shall mean a testing laboratory certified by the Kansas Department of Health and Environment to test for the parameters required;
- (10) "BOD5" shall mean the 5 day Biochemical Oxygen Demand of a specific sample as tested according to SM 5210;
- (11) "TSS" shall mean the total suspended solids of a specific sample as tested according to SM 2540-D;
- (12) "Residential User" shall mean as follows: (a) Single Family shall mean any residential unit where each dwelling unit is served by an individual meter. (b) Multi-Family shall mean any multiple dwelling units served by a single water meter;
- (13) "Commercial User" 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 user;
- (14) "Industrial User" 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 pretreatment permit by the administrative authority;
- (15) "Restaurants" shall mean any sewer customer who prepares food for resale except 1) locations where lodging is provided, or 2) locations where the water used by the restaurant is less than 25% of the total water use for the meter;

(16) "Car Washes" shall mean any sewer customer where there is a commercial car wash available, including gas stations;

(17) "Laundries" shall mean any sewer customer that provides laundry facilities available for public use or that provides laundry services;

(18) "General" shall mean any commercial user not defined as a restaurant, car wash, or other high strength sewer discharge as defined. (Ord. 07-134 § 1, 2007; Ord. 94-82 § 1, 1994.)

### **13.08.011 Wastewater Rates.**

(A) All persons, firms or corporations having a connection with the public sewerage system and all persons, firms and corporations having sewage that should be discharged into the public sewerage system where adequate sewers are available, shall pay monthly wastewater charges consisting of a wastewater usage charge, a wastewater service charge, and an extra strength surcharge.

(B) All wastewater billings shall include the following charges:

(1) Monthly Usage Charge. Such charge shall be adopted by the Governing Body of the City by resolution.

(2) Monthly Service Charge. Such service charge shall be adopted by the Governing Body of the City by resolution.

(3) Extra Strength Surcharge: Such extra strength surcharge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-144 § 1, 2002; Ord. 01-107 § 1, 2001; Ord. 00-115 § 1, 2001; Ord. 99-97 § 1, 1999; Ord. 96-107 § 1, 1997; Ord. 95-101 § 1, 1995; Ord. 94-82 § 2, 1994; Ord 93-104 § 1, 1993; Ord. 92-66 § 1, 1992; Ord. 91-77 § 1, 1991; Ord. 91-21 § 1, 1991; Ord. 89-91 § 1, 1989; Ord. 85-151 § 1, 1986; Ord. 84-154 § 1, 1984; Ord. 83-112 § 1, 1983; Ord. 82-138 § 1, 1983; Ord. 517 § 2, 1976 {State Grant Repayment Charge 13.08.11 repealed 11/15/94}.)

**13.08.020 Service Charges.** The billing for the collection of sewage disposal charges, and the penalty charged for late payment thereof, shall be as set forth in Section 13.24.060 of this code. (Ord. 805 § 3, 1978; prior code § 11-123.)

### **13.08.030 Monthly Wastewater Charge--Determination of Flow.**

(a) DETERMINATION OF FLOW. For the purpose of determining the wastewater monthly usage charge the following formula shall be used:

(1) RESIDENTIAL CUSTOMER. Residential customer charges for the months of January, February and March of each year shall be based upon the average water use of said customer for the months of January, February and March of the prior year. Residential customer charges for the months of April through December of each year shall be based upon the average actual water use of said customer for the months of January, February and March of the same year or as defined in Section 13.08.010 (7).

(2) NONRESIDENTIAL CUSTOMERS. Nonresidential customer charges for each month shall be based upon actual water usage for said month or as defined in Section 13.08.010 (7).

(b) ADJUSTMENTS: Wastewater usage charges may be adjusted to the same extent as a water bill adjustment due to water line breaks. Charges may also be considered due to nonsewered water uses upon receipt of fully supported application for said adjustments in accordance with section 13.08.040.

(c) The city manager or his duly authorized representative may promulgate regulations as are necessary to carry out the provision of this section. (Ord. 94-82 § 3, 1994; Ord. 517 § 4, 1976; prior code § 11 -124.)

### **13.08.040 Industry Standard Sewer Discharge Volume Credits.**

(a) Certain users with less than or equal to 90% of their water discharged to the sanitary sewer system will be assigned an Industry Standard volume credit based on the following table. Other users, who discharge less than or equal to 90% of the water used, may obtain a volume credit by conducting an approved flow study to determine the percentage of water discharged to the sanitary sewer system.

<u>USER</u>	<u>VOLUME CREDIT</u>
Car Washes	20%
Laundries	10%

(Ord. 94-82 § 4, 1994.)

### **13.08.050 Appeal of assigned use category strength or volume credit.**

(a) The USER may appeal the assigned user strength or volume credit by filing a written appeal, followed by the results of a representative sample, tested by a certified laboratory, and written description of the sampling procedure, or a copy of a flow study, conducted at the facility. The city will review the sampling, or flow study, to confirm the validity of the results submitted. If the testing verifies that the assigned user strength or volume credit is not representative of the wastewater strength or volume being discharged, then the city will revise the user strength or volume credit for that customer and will credit the bill(s) from the date of receiving the appeal. (Ord. 94-82 § 5, 1994.)

## **CHAPTER 13.12**

### **WATER SERVICE RATES**

#### **Sections:**

13.12.020	Contracts with Rural Districts.
13.12.025	Definitions.
13.12.030	Rates within the City.
13.12.040	Rates Outside City.
13.12.045	Water Rates--Wholesale Customers.
13.12.050	Tank Hauling Rates.
13.12.060	Other Charges not Prohibited.
13.12.070	Purchase of Water from Water Hydrants--Procedure.

**13.12.020 Contracts with Rural Districts.** The Governing Body of the city reserves the right to contract with rural water districts on a contractual basis. (Prior code § 11-202.)

#### **13.12.025 Definitions. As used in this chapter.**

- (1) "City" includes the department responsible for the administration of these requirements, the employees and/or its contractors or subcontractors;
- (2) "City utility charges" shall mean charges related to the city's water, sewer, and sanitation service;
- (3) "Unified billing charges" shall mean charges related to the city's water, sewer, and sanitation service;

(4) "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;

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

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

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

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

(7) "Residential" shall mean as follows: (a) Single Family shall mean any residential unit where each dwelling unit is served by an individual meter. (b) Multi-Family shall mean any multiple dwelling units served by a single water meter;

(8) "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;

(9) "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. (Ord. 94-91 § 1, 1994)

**13.12.030 Rates within the City.** Consumers of city water delivered within the city shall be charged a monthly water charge consisting of a water usage charge and a water service charge for each meter by which they are served in accordance with the established rate schedule. Such rate schedule shall be adopted by the Governing Body of the City by resolution. (Ord. 02-145 § 1, 2002; Ord. 01-108 § 1, 2001; Ord. 00-114 § 1, 2001; Ord. 99-96 § 1, 1999; Ord. 96-106 § 1, 1996; Ord. 95-100 § 1, 1995; Ord. 94-81 § 1, 1994; Ord. 93-103 § 1, 1993; Ord. 92-65 § 1, 1992; Ord. 91-76 § 1, 1991; Ord. 91-20 § 1, 1991; Ord. 89-90 § 1, 1989; Ord. 85-152 § 1, 1986; Ord. 84-144 § 1, 1984; Ord. 83-111 § 1, 1983; Ord. 82-137 § 1, 1982.)

#### **13.12.040 Rates Outside City.**

(a) Retail consumers of city water delivered outside the city shall be charged 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 Expansion Area as described in Exhibit B under an agreement dated March 21, 2000 with Water District No. 1 of Johnson County, Kansas. (Ord. 00-41 § 1, 2000; Ord. 83-111 § 2, 1983; Ord. 82-137 § 2, 1982.)

**13.12.045 Water Rates - Wholesale Customers.** There shall be established a monthly service charge for all wholesale customers of water that is delivered outside of the City. Such service charge shall be adopted by the Governing Body of the City by resolution. (Ord. 02-145 § 2, 2002; Ord. 01-108 § 2, 2001; Ord. 00-114 § 2, 2000; Ord. 99-96 § 2, 1999; Ord. 96-106 § 2, 1996; Ord. 95-100 § 2, 1995; Ord. 94-81 § 2, 1994; Ord. 93-103 § 2, 1993; Ord. 92-65 § 2, 1992; Ord. 91-76 § 2, 1991; Ord. 91-20 § 2, 1991; Ord. 89-90 § 2, 1989; Ord. 85-152 § 2, 1986; Ord. 84-144 § 2, 1984; Ord. 83-111 § 3, 1983; Ord. 82-137 § 3, 1983.)

**13.12.050 Tank Hauling Rates.** Rates are hereby established for all water hauled by tank. Such rates shall be adopted by the Governing Body of the City by resolution. All water hauled by tank shall be loaded at the City Water Works Plant. (Ord. 02-145 § 3, 2002; Ord. 01-108 § 3, 2001; Ord. 00-114 § 3, 2000; Ord. 99-96 § 3, 1999; Ord. 96-106 § 3, 1996; Ord. 94-81 § 3, 1994; Ord. 93-103 § 3, 1993; Ord. 92-65 § 3, 1992; Ord. 91-76 § 3, 1991; Ord. 91-20 § 3, 1991; Ord. 89-90 § 3, 1989; Ord. 85-152 § 3, 1986; Ord. 84-144 § 3, 1984; Ord. 83-111 § 4, 1983; Ord. 80-58 § 4, 1980; prior code § 11-205.)

**13.12.060 Other Charges Not Prohibited.** Nothing herein shall be construed as prohibiting additional increases in rates, fees and charges in the event the same fails to produce sufficient revenues to meet the operational costs of the water department and to meet the principal and interest on the waterworks revenue bonds now outstanding. (Prior code § 11-206.)

**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. Fire hydrants are not intended nor shall be used for seasonal filling of swimming pools or as a temporary water supply for residential construction sites.

(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 six months at a time.

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

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

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

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

(8) 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) Failure to return the meter at the end of the six month period 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 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.

(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 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. (Ord. 11-23 § 1, 2011; Ord. 02-145 § 4, 2002; Ord. 01-108 § 4, 2001; Ord. 00-114 § 4, 2000; Ord. 99-96 § 4, 1999; Ord. 96-106 § 4, 1996; Ord. 95-100 § 3, 1995; Ord. 94-81 § 4, 1994; Ord. 93-103 § 4, 1993; Ord. 92-65 § 4, 1992; Ord. 91-76 § 4, 1991; Ord 91-20 § 4, 1991; Ord. 89-90 § 4, 1989; Ord. 85-152 § 4, 1986; Ord. 84-144 § 4, 1984; Ord. 83-111 § 5, 1983; Ord. 898 § 2, 1979.)

**CHAPTER 13.17. Water Main Extensions.** Repealed 12/4/07. (Ord. 87-30, 1984; Ord. 804, 1978; Ord. 474, 1976.)

## CHAPTER 13.20

### SANITARY SEWER HOOK-UP FEES

#### Sections:

- 13.20.010 Determination.
- 13.20.020 Payments.
- 13.20.030 Actions Authorized.
- 13.20.040 Applicability.

**13.20.010 Determination.** When any property, whether within or without the city limits is located topographically so that it could be determined to fall within the boundaries of a named sanitary sewer district of the city, but is not included in said district, and subsequent to the establishment of the main sanitary sewer district, the owner of said property desires to use the main sanitary sewer facilities, the owner of the property seeking to use the facilities shall pay a fee to the city based upon the total cost per square foot of the original main sanitary sewer district. The fee shall be calculated by multiplying the square footage of the property seeking to use the sanitary sewer facilities by the total cost per square foot of the original main sanitary sewer district. (Ord. 108 § 1, 1972.)

**13.20.020 Payments.** The payments shall be made in one payment and shall be deposited in the bond and interest fund of the city. (Ord. 108 § 2, 1972.)

**13.20.030 Actions Authorized.** The payment of the fee shall entitle the owner of the property to connect to the existing main sanitary sewer facilities, but the cost of constructing any additional sewers to do so is at the owner's expense. (Ord. 108 § 3, 1972.)

**13.20.040 Applicability.** All future main sanitary sewer districts from the date of the enactment of the ordinance codified in this chapter and main sanitary sewer district No. 11 shall be subject to the provisions of this chapter. Upon the calculation of the total cost of the main sanitary sewer district improvement, the city engineer shall certify to the city clerk the total cost per square foot of said improvement and shall also certify a description of the property not included within the main sanitary sewer district improvement that could in the future use and be connected to the main sanitary sewer facilities. (Ord. 108 § 4, 1972.)

## CHAPTER 13.24

### WATER AND SEWAGE DEPARTMENT

#### Sections:

13.24.010	Declaration.
13.24.020	Systems Combination.
13.24.030	Water and Sewage Department Designation.
13.24.040	Obligations Assumption.
13.24.050	Charge Billing.
13.24.060	Utility Service Charges.
13.24.070	Utility Bill Round-Up Program.
13.24.080	Discount Program

**13.24.010 Declaration.** The city operates a waterworks utility system and also operates a sewage disposal plant and system and said systems are wholly owned by the city and no private utility operates within the area served by the systems herein combined. (Ord. 1523-A § 1, 1962.)

**13.24.020 Systems Combination.** Under the provisions of the laws of the state and specifically 12-856 to 868, both inclusive, 1961 Supplement to G.S. Kansas, 1949, the utilities set out in Section 13.24.010 are combined for the specific purposes as set out in this chapter and of simplifying the procedure of the maintenance and upkeep of said systems, which can be done more efficiently and accurately as a combined system. (Ord. 1523-A § 2, 1962.)

**13.24.030 Water and Sewage Systems Designated.** The combined systems as herein set out of the City shall be known and designated as the water and sewage systems of the City and all funds of said systems are hereby merged and all collections and separate accounts of said utilities are merged into what will be known and designated as the water and sewage systems of the City. (Ord. 11-24 § 1, 2011; Ord. 1523-A § 3, 1962.)

**13.24.040 Obligations Assumption.** Any obligations of either system will now be assumed as an obligation of the combined systems. (Ord. 11-24 § 2, 2011; Ord. 1523-A § 4, 1962.)

**13.24.050 Charge Billing.** All rates, fees and charges for water and sewage disposal service shall continue to be billed as a separate item on the monthly bills of customers of said systems, and the rates, fees and charges now in effect shall remain unchanged until such time as the Governing Body authorizes by resolution changes to such rates, fees and charges. (Ord. 11-24 § 3, 2011; Ord. 02-146 § 1, 2002; Ord. 1523-A § 5, 1962.)

**13.24.060 Utility Service Charges.** Utility service bills for water service, sewage disposal, stormwater and for the collection and disposal of solid waste shall be rendered and be payable each month. Sewer service charges, stormwater and charges for the collection and disposal of solid waste shall be billed as additional items on the water bills, and such charges shall be properly designated by a symbol, adopted by the director of financial services or designee, designating sewage disposal charges, stormwater fees, and solid waste disposal charges. Such charges shall be collected by the director of financial services or designee as a part of the total bill rendered.

The director of financial services or designee shall collect the total charge as a combined bill and shall not accept partial payment of any specific item of water, sanitation, stormwater, or sewer service charges.

Any person, firm or corporation failing to pay their utilities service bill within twenty one (21) days following the rendering of the bill shall be assessed a penalty of five percent of the total bill.

In instances of nonpayment of the utilities service bill, water service shall be disconnected pursuant to Section 13.04.106 and will be turned on only upon payment of all outstanding utilities service bills of the City of Olathe, together with the penalty provided and a service call charge for the purpose of disconnection and/or reconnection. Such service call charge shall be adopted by the Governing Body of the City by resolution. (Ord. 11-24 § 4, 2011; Ord. 02-146 § 2, 2002; Ord. 95-100 § 4, 1995; Ord. 83-117 § 1, 1983; Ord. 805 § 4, 1978.)

**13.24.070 Round-up Program.**

A. Persons who desire to voluntarily make a monetary contribution to the improvement of the City shall be entitled to do so by indicating the amount of such contribution on the monthly utility bill received from the City. All monies received by the City in excess of the payment of the utility bill which represents a voluntary contribution to the City as indicated thereon, shall be deposited in a separate and segregated fund and used for public purposes.

B. In order to effectuate the provisions of this section, the City Manager is hereby authorized and directed to amend and revise the monthly utility bills in order to enable persons desiring to make such contribution to indicate the same thereon and the amount of the contribution. (Ord. 11-24 § 5, 2011; Ord. 97-20 § 1, 1997.)

**13.24.080 Discount Program.** The City Manager is hereby authorized and directed to establish a residential water and sewer service charge account holder discount program. The discount program will be made available to residential account holders age sixty-five (65) and older who satisfy the residency requirements, maximum income restrictions, and other requirements established by the City Manager or designee to administer the program. The discount will be made available to qualified residential account holders on a yearly basis and will require each account holder in the program to show proof of income to the City Manager or designee for each year a discount on monthly water and sewer service charges is requested. The discount rate shall be established by resolution of the Governing Body. (Ord. 11-24 § 6, 2011.)

## CHAPTER 13.26

### SYSTEMS DEVELOPMENT CHARGE

#### Sections:

13.26.010	Purpose.
13.26.020	Authority.
13.26.030	Definitions.
13.26.040	Meters.
13.26.050	Systems Development Charge Established.
13.26.060	Payment of Charge.
13.26.070	Exemptions.
13.26.080	Credits.
13.26.090	Refunds.
13.26.100	Use of Revenue.
13.26.110	Appeals.

**13.26.010 Purpose.** A systems development charge is imposed for the purpose of creating a source of funds to assist in paying for the installation and construction of increased capacity in public facilities. This charge shall be collected at the time of development of properties that contribute to the need for extra capacity facilities. (Ord. 86-07 § 1, 1986.)

**13.26.020 Authority.** That Chapter 13.26 of the Olathe Municipal Code was enacted pursuant to the authority of Charter Ordinance No. 26 of the City of Olathe, Kansas, and Section 5 of Article 12 of the Kansas State Constitution. (Ord. 86-07 § 1, 1986.)

**13.26.030 Definitions.** As used in this chapter, the following words and phrases shall mean:

(A) DUPLEX - A building arranged, intended or designed for occupancy by two families.

(B) DWELLING UNIT - A permanently located building, or portion thereof, designed exclusively for residential occupancy, including single family, duplex, multi-family and mobile homes, but not hotels or motels.

(C) EXTRA CAPACITY FACILITIES - Improvements to the public facilities of the city that provide increased capacity to serve new or expanded development as distinguished from replacement or restoration of facilities that have or may become worn or obsolete.

(D) MOBILE HOME - A residential structure, assembled in total or in not more than three sections at a factory, and transported over the road by truck or temporary wheel carriage to its destination.

(E) MULTI-FAMILY DWELLING UNIT - A building or portion thereof arranged, intended or designed for occupancy by three or more families on a rental or lease basis and commonly referred to as a triplex, fourplex or apartment building.

(F) NON-RESIDENTIAL USES - Included commercial uses (those business, retail, institutional, governmental, office and/or professional activities which provide products and services to individuals, business or groups) industrial uses (those activities which are predominantly engaged in the assembly, finishing, processing, packaging, and/or storage of products), and irrigation systems.

(G) PUBLIC FACILITIES - The waterworks and sewage disposal system of the City of Olathe.

(H) RESIDENTIAL USES - A dwelling unit or dwelling units.

(I) SINGLE FAMILY DWELLING UNIT - A building or part of a building that is designed for occupancy by one family, each unit is served by an individual water meter and is platted or re-platted for individual ownership.

(J) SYSTEMS DEVELOPMENT CHARGE. A charge levied on development to provide revenue to finance extra capacity facilities. (Ord. 04-15 § 1, 2004; Ord. 86-07 § 1, 1986.)

**13.26.040 Meters.** The meters referred to in this chapter, and especially as listed in the charge schedule found in Section 13.26.50, are displacement type meters. Should a different type of meter be used or allowed by the city a different charge may have to be computed based upon the capacity of the meter used. The city shall have the right to establish the minimum meter size and type required. (Ord. 95-100 § 5, 1995; Ord. 86-07 § 1, 1986.)

**13.26.050 Systems Development Charge Established.**

(a) There is hereby established a systems development charge to be imposed upon all persons who are issued a building permit for a permit for connection to the water and/or sewer system, whichever occurs first, on or after January 1, 1997 (except those exempted therefrom by Section 13.26.070). Such charge shall be adopted by the Governing Body of the City by resolution.

(b) The charge for mobile homes shall be collected whenever a mobile home park is platted for additional spaces.

(c) The water and sewer system development charges for meter sizes exceeding 8" shall be based on the following formula:  $(5/8" \text{ meter system development charge}) / ((\text{meter capacity of proposed meter} / \text{meter capacity of } 5/8" \text{ meter})) = \text{System Development Charge}$ . (Ord. 07-134 § 2, 2007; Ord. 02-147 § 1, 2002; Ord. 96-108 § 1, 1996; Ord. 94-86 § 1, 1994; Ord. 89-92 § 1, 1989.)

**13.26.060 Payment of Charge.**

(a) The systems development charge is immediately due and payable upon, and concurrently with, the issuance of a valid building permit or a valid permit for connection to the water or sewer system of the city, whichever occurs first. If building construction is commenced, or a connection is made to the water or sewer system, without the permit prescribed by ordinance, the systems development charge is immediately due and payable as of the earliest date that any such permit was required. The Director of Development Services shall collect the systems development charge before issuing any building permit or before permitting any connection to the water or sewer system of the city, and shall decline to issue such permit or to permit such connection until that charge has been paid in full. If a connection is made to the water or sewer system without the permit prescribed by this ordinance, the systems development charge is immediately due and payable as of the earliest date that such permit was required under this ordinance and the city attorney may bring such appropriate legal proceedings as are necessary to collect such charge.

(b) Any person who applies for a building permit (or if it occurs first, water or sewer connection permit) in December 1986 and such permit is not processed or picked up prior to January 1, 1987, shall pay the 1987 systems development charges; any person who applies for a building permit or, if it occurs first, water or sewer connection charge, in December 1987 and such permit is not processed or picked up prior to January 1, 1988, shall pay the 1988 systems development charge. (Ord. 05-125 § 1, 2005; Ord. 86-07 § 1, 1986.)

**13.26.070 Exemptions.** The following shall be exempt from the payment of the system development charge:

- (a) Structures which do not require connection to the water or sanitary sewer system of the city.
- (b) Structures being altered and which do not require a change of the existing meter size.
- (c) Additions to non-residential structures which do not require a change of the existing meter size.

(d) Additions to residential structures which do not add dwelling units.

(e) Structures being rebuilt after being demolished, or destroyed or damaged by fire, or other acts of God, and which do not require the change of the existing meter size.

(f) Structures located on land annexed to the city after the effective date of this ordinance until such time as the structures may be connected to the water and sewer system. Upon such connection, the systems development charge shall be paid.

(g) Separately metered fire sprinkler systems that are used exclusively for fire protection.

(h) Structures having an existing water and/or sewer connection prior to the effective date of this ordinance.

(i) Persons who have obtained a building permit prior to the effective date of this ordinance and substantial construction begins within 180 days of the issuance of the permit. (Ord. 86-07 § 1, 1986.)

**13.26.080 Credits.** For structures being altered, added to, or rebuilt, with an increased sized meter, the applicant for a building or a water or sewer connection permit, whichever occurs first, may request a credit in an amount equal to the systems development charge for the applicant's existing meter. (Ord. 86-07 § 1, 1986.)

**13.26.090 Refunds.** If after the payment of the systems development charge and the issuance of a building permit, no building construction is commenced, the applicant may make application for a refund of the charge with the finance director. Proper documentation and proof of such fact may be requested by the finance director. (Ord. 86-07 § 1, 1986.)

**13.26.100 Use of Revenue.** The revenue from the systems development charge shall be placed in a separate account and used only for the cost of extra capacity facilities scheduled for construction or installation under a capital improvement program or for payment of debt due to construction or installation of extra capacity facilities. Design and administrative costs are a part of extra capacity facilities. Once construction or installation is underway or is completed, the design and administrative costs necessary for the work may be paid with the revenue. To provide for the expenditure of the revenue from the systems development charge, the city shall maintain a capital improvement program which shall distinguish the cost of extra capacity facilities from other capital costs. (Ord. 86-07 § 1, 1986.)

**13.26.110 Appeals.** A decision made under this ordinance may be appealed to the Board of Code Review by submitting an appeal request to the city clerk within ten (10) days of the date of the decision. No precise form of appeal is required, but the city shall provide forms to assist those who want to use them. The city clerk upon receiving the appeal report shall schedule the appeal and notify in writing the person taking the appeal, and any other person who asks in writing for notice. In considering the appeal, the board may affirm, modify, extend or overrule the decision in a manner that is consistent with the provisions of this ordinance. All decisions of the board shall be in writing and the decision rendered shall be a final administrative decision. (Ord. 05-125 § 2, 2005; Ord. 86-07 § 1, 1986.)

## CHAPTER 13.28

### STORMWATER INFILTRATION AND INFLOW CONTROL

#### Sections:

13.28.010	Authority.
13.28.020	Findings.
13.28.030	Purpose.
13.28.040	Applicability.
13.28.050	Definitions.
13.28.060	Prohibitions.
13.28.070	Access and Entry.
13.28.080	Disconnect Order.
13.28.090	Failure to Comply with an Administrative Order.
13.28.100	Appeals Board.
13.28.110	Abatement of Nuisances.
13.28.120	Penalties.
13.28.130	Owner Assistance Program.
13.28.140	Disclaimer of Liability.

**13.28.010 Authority.** The city, under the authority of K.S.A. 12-631j and Section 5 of Article 12 of the Kansas Constitution, is hereby authorized to adopt rules and regulations providing for the management and operation of its sewage system, including prohibiting the discharge of matter deleterious to the proper operation of the sewer treatment plants. (Ord. 90-14 § 1, 1990.)

**13.28.020 Findings.** A fundamental duty of every government is the protection of the health and safety of its citizens and to thereby promote the public welfare. Consequently, the Governing Body of the City of Olathe hereby finds, determines and declares that it is necessary to adopt a uniform system of rules, regulations and standards to eliminate and prevent certain environmental conditions that are hazardous to the public health, safety and welfare. Specifically, the City of Olathe finds that the excessive inflow and infiltration of stormwater from any source, private or public, into the sewage system is a hazard to the health, safety and welfare of the citizens of this city and surrounding communities because such infiltration and inflow overloads the capacity of both sanitary sewer lines and treatment plants. (Ord. 90-14 § 1, 1990.)

**13.28.030 Purpose.** The purpose of this chapter is:

(a) To promote the health, safety and welfare of the public; and

(b) To prescribe rules, regulations, standards and enforcement procedures for the minimization, control or elimination of potential and actual sources or causes of stormwater infiltration and inflow into the sanitary sewer system operated by the City of Olathe. (Ord. 90-14 § 1, 1990.)

**13.28.040 Applicability.** This chapter shall be applicable to any sewer provided by the City of Olathe sanitary sewer system. (Ord. 90-14 § 1, 1990.)

**13.28.050 Definitions.** The following definitions shall apply when the words and phrases defined are used in this chapter, except when a particular context requires a different meaning:

(a) Access: Entry into or upon any real estate or structure including any part thereof.

(b) Administrative Agency: The City of Olathe Municipal Services Department is hereby designated as the agency responsible for administering the provisions of this regulation.

(c) Infiltration: The water entering a sewer system, including sewer service connection, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

(d) Infiltration/Inflow: A combination of infiltration and inflow wastewater volumes in sewer lines, with no way to distinguish either of the basic sources, and with the same effect of usurping the capacities of sewer systems and other sewer system facilities.

(e) Inflow: The water discharged into a sewer system, including service connections, from such sources as, but not limited to, roof leaders, cellar, yard and area drains; foundation drains, cooling water discharges; drains from springs and swampy areas, manhole covers; cross connections from storm sewers, catch basins; stormwaters, surface runoff; street washwaters; or drainage. Inflow does not include, and is distinguished from, infiltration.

(f) Sanitary Sewage System: A system of pipes, tanks, conduits, structures or other devices for the collection, transportation, storage, treatment or disposal of sewage.

(g) Schedule of Compliance: means a schedule of actions or operations leading to compliance with any control regulation or effluent limitation.

(h) Sewage: means a combination of liquid wastes which may include chemicals, house wastes, laundry wastes, human excreta, animal or vegetable matter in suspension or solution and other solids in suspension or solution, and which is discharged from a dwelling, building or other establishment.

(i) Sewage Treatment Works: means a system or facility for treating, neutralizing, stabilizing or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand gallons of sewage per day. The term "sewage treatment works" includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations and related equipment. (Ord. 90-14 § 1, 1990.)

#### **13.28.060 Prohibitions.**

(a) It shall be unlawful for any person to henceforth make or allow the connection of roof downspouts, interior or exterior foundation drains, areaway drains, sump pumps or other source of surface runoff or ground water to a building sewer or building drain which is connected to a public sanitary sewer or directly to a public sanitary sewer, even though such connection may have been allowable when made under then existing standards, rules or regulations.

(b) It shall be unlawful for any person to construct a sump pump pit in any building or structure without installing a sump pump prior to the final building inspection. (Ord. 90-14 § 1, 1990.)

**13.28.070 Access and Entry.** Whenever necessary to make an inspection to determine compliance with this chapter, enforce any of the provisions of this chapter, or whenever reasonable cause to believe that there exists in any building, premises or establishment, any violation of this chapter, representatives of the Administrative Agency may enter any building premises or establishment at all reasonable times to inspect the same or to perform any duty imposed by this chapter; provided that if such building, premises or establishment be occupied, the representative shall first present proper credentials and demand entry; and if such building or premises be unoccupied, the representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrative Agency shall have recourse to every remedy provided by law to secure remedy. (Ord. 90-14 § 1, 1990.)

**13.28.080 Disconnect Order.** The City of Olathe may issue an order directing the owner of a premises to disconnect a private infiltration or inflow source from the sanitary sewer system. The order shall be effective not less than sixty (60) days from its date of issuance. The order may state a deadline for compliance but such deadline shall not be more than six months after the issuance of the order.

Within thirty (30) days after receipt of the order the owner may request a review hearing before the Board of Code Review by filing a written request therefor with the director of Municipal Services. The filing of such request shall act as a stay of the order. After such hearing the board may affirm, set aside or modify such order.

Any decision of the Board of Code Review entered after a review hearing may be appealed de novo to the Governing Body of the City of Olathe and they may affirm, set aside or modify the order as issued or as modified. (Ord. 90-14 § 1, 1990.)

**13.28.090 Failure to Comply with an Administrative Order.** It shall be unlawful for any person to fail or refuse to comply with a written order by the Administrative Agency within such reasonable time as the agency may specify in the order. (Ord. 90-14 § 1, 1990.)

**13.28.100 Appeals Board.** The Board of Code Review is hereby appointed as an Appeals Board to hear all disconnection order appeals. (Ord. 90-14 § 1, 1990.)

**13.28.110 Abatement of Nuisances.** The Administrative Agency may maintain a civil action by injunction, in the name of the Governing Body of the City of Olathe, to abate and temporarily or permanently enjoin the continuing connection of a private infiltration or inflow source as a nuisance, in any court of competent jurisdiction. (Ord. 90-14 § 1, 1990.)

**13.28.120 Penalties.** Any person violating any of the provisions of this chapter shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine or imprisonment. (Ord. 90-14 § 1, 1990.)

**13.28.130 Owner Assistance Program.**

(a) Financial Assistance. Financial assistance in the form of partial reimbursement for the cost of disconnecting prohibited infiltration and inflow sources shall be provided to persons who receive and comply with a Disconnect Order as described in Section 13.28.090. Such reimbursement shall be in the amount and subject to the terms set out in this section.

(b) Procedure.

(1) Upon verification by the Administrative Agency that a prohibited private sector infiltration or inflow connection exists and is cost-effective to remove or repair, the agency shall issue a Disconnect Order to the landowner.

(2) The owner shall comply with the order by having the work done by a plumbing or other approved competent contractor, through self-help or other means at his or her discretion.

(3) All work shall be done in a workmanlike manner and shall comply with the minimum standards of design for such device, structure, appurtenance or connection.

(4) After the disconnection is completed, the agency shall reinspect the premises to verify compliance with the Disconnect Order and verify that there are no other illegal connections.

(5) If compliance with this chapter is verified, the city shall reimburse half (1/2) of the actual cost but not to exceed the following maximum amounts payable per source based on a valid invoice. If the property owner completes the work, only the cost of materials will be reimbursed.

Property Inflow Reduction - Property Owner Assistance Program

	City Pays	Property Owner Pays	Maximum City Contributions
Service Laterals	50%	50%	\$500
Area Drains	50%	50%	500
Storm Sumps	50%	50%	200
Floor Drain Defect	50%	50%	100
Cleanouts	0%	100%	0
Downspouts	0%	100%	0

(6) Acceptance of reimbursement shall constitute a consent by the person accepting such payment to a reinspection of the premises by the agency within one year following payment for the sole purpose of verifying continued compliance with this chapter. Such reinspection shall be done at a convenient time. (Ord. 90-14 § 1, 1990.)

**13.28.140 Disclaimer of Liability.** This chapter shall not be construed or interpreted as imposing upon the City of Olathe or its officials or employees:

(1) any liability or responsibility for damages to any property; or

(2) any warranty that any system, installation or portion thereof, that is constructed or repaired under permits and inspections required by this chapter will function properly. (Ord. 90-14 § 1, 1990.)

## CHAPTER 13.30

### UPPER CEDAR CREEK SANITARY SEWER BUY-IN CONNECTION FEE

#### Sections:

13.30.010	Purpose and Intent.
13.30.020	Authority.
13.30.030	Definitions.
13.30.040	General Provisions and Applicability.
13.30.050	Determination of Fee Amount.
13.30.060	Imposition, Calculation and Collection of Fee
13.30.070	Establishment of Fee Account.
13.30.080	Limitations on Use of Fees.
13.30.090	Appeals.

#### **13.30.010 Purpose and Intent.**

(A) Purpose. The Upper Cedar Creek Sanitary Sewer Buy-In Connection Fee ("Fee") has been established and will be imposed for the purpose of creating a source of funds to (1) pay back principal and interest on a Kansas Water Pollution Control Revolving Fund (KPCRF) loan ("Revolving Fund Loan") for the Upper Cedar Creek Main Sewers, Project No. 14394C requested by the City of Olathe ("City") from the State of Kansas Department of Health and Environment ("KDHE") in order to construct a main trunk sewer line and appurtenant sanitary sewer system facilities necessary to provide sewage disposal service to the Upper Cedar Creek Drainage Area ("Area") and/or (2) reimburse the City for principal and interest payments made on the revolving fund loan.

(B) Intent. The City finds that a Sanitary Sewer Buy-In Connection Fee will best enable the City to extend the necessary sanitary sewer system to the Upper Cedar Creek Drainage Area which currently is not served by sanitary sewer but, in which there is existing development that is in need of sanitary sewer to prevent private sewage disposal system, septic tank and holding tank failures, and in which the City anticipates significant new development that will require sanitary sewers in order to develop. Therefore, in order to promote and protect the public health, safety and welfare of residents and property owners within the area and in the City as a whole, the City intends to: (1) provide the necessary sanitary sewer system to the entire Area through the construction of a main trunk sewer line and appurtenant facilities; (2) establish the cost thereof; (3) allocate the cost on a per acre basis within the Area to reflect the relative (pro rata) need for the sanitary sewer system by such properties and to ensure that such properties receive reasonable benefits therefrom; (4) collect such fee in full at the time of connection to the sanitary sewer system; (5) restrict the use of the fees collected to repayment of the principal and interest on the revolving fund loan or to reimbursement to the City for payments of principal and interest on the revolving fund loan; and (6) ensure that all applicable legal standards and criteria are properly incorporated herein.

(C) Legislative Intent. The City's intent is to exercise its police power to establish a fee for the provision of an essential service in an amount sufficient to fund the capital improvements necessary to provide the service to the defined geographic area which will benefit from the provision of the service and in which such service is presently not provided.

(D) Findings.

(1) The City has undertaken studies to determine the most cost effective manner in which to provide sanitary sewer service to the Upper Cedar Creek Drainage Area, including, but not limited to, considerations of current growth and development in the area, estimated future growth and development, capacity analyses, estimated peak flows, the effects of infiltration and inflow and flow monitoring.

(2) The City finds that the allocation of the costs of providing such sanitary sewer service to the defined geographic area, much of which is presently undeveloped and in which ultimate uses, densities/intensities and types of development are presently unknown, will be best met by utilizing a per acre fee which equitably spreads the costs of the sanitary sewer system throughout the defined geographic area.

(3) The City further finds that, because the per acre fee is imposed and collected only at the time of connection to the sanitary sewer system, is a one-time charge, is imposed against a person seeking connection and not against the property itself, is voluntary (only imposed if connection is applied for and made) and reflects only the actual cost of providing the service, the fee has none of the characteristics of and, therefore, is not a tax nor a special assessment.

(4) The City has, by virtue of the passage of Resolution No. 94-1127 on October 4, 1994, authorized the Upper Cedar Creek Main Sewers project, and designated funding for engineering from the City Water and Sewer Fund in the amount of \$200,000.00.

(5) The City has, by virtue of the passage of Resolution No. 94-1128 on October 4, 1994, authorized application for a Kansas Water Pollution Control Revolving Fund loan for the Upper Cedar Creek Main Sewers (Project No. 14394C).

(6) The City has, on October 4, 1994, considered entering into an agreement with George Butler Associates ("GBA") for the provision of engineering services for the Upper Cedar Creek Main Sewers (Project No. 14394C) and has voted to execute such agreement. (Ord. 94-71 § 1, 1994.)

**13.30.020 Authority.** Chapter 13.30 of the Olathe Municipal Code was enacted pursuant to the authority of (1) City of Olathe Charter Ordinance No. 26 (adopted August 20, 1985) by which the City exempted itself from the provisions of K.S.A. § 12-856 and 860 and provided substitute and additional provisions on the same subject relating to and authorizing, *inter alia*, sanitary sewer buy-in connection fees, and (2) Section 5 of Article 12 of the Kansas Constitution (the "Home Rule Amendment") empowering cities to determine their local affairs and government through the enactment of charter ordinances. (Ord. 94-71 § 1, 1994.)

**13.30.030 Definitions.** As used in this Chapter, the following words and terms shall have the meaning herein indicated:

(A) APPLICANT - any person in the Upper Cedar Creek Drainage Area who makes an application for a connection permit to connect to the sanitary sewer system.

(B) AREA or UPPER CEDAR CREEK DRAINAGE AREA - that area within the City limits of the City of Olathe and outside of the City limits that will be served by the main trunk sewer line and appurtenances thereto, which is described on the Legal Description attached hereto and incorporated herein by reference as Exhibit No. 1 and which is shown on the Map attached hereto and incorporated herein by reference as Exhibit No. 2. To the extent of any conflict between the Map and the Legal Description, the Legal Description shall control.

The area includes all properties which can be served by the sanitary sewer system, including properties presently outside of the City limits. Connections to the sanitary sewer system by Applicants outside of the City limits shall be permitted only upon or after annexation of such property to the City.

(C) COMMUNITY DEVELOPMENT BUILDING CODE DIVISION OF JOHNSON COUNTY, KANSAS - the agency granted responsibility by the City of Olathe, pursuant to an Intergovernmental Agreement, to act as the regulatory and enforcement agency for private sewage disposal systems in the City of Olathe.

(D) CONNECTION PERMIT - the permit required for connection to the City's sanitary sewer system, which requires the payment of a "tap fee" as set forth in City of Olathe Municipal Code.

(E) EXTRA CAPACITY FACILITIES - improvements to the City-wide sanitary sewer system that provide increased capacity to serve new or expanded development and which facilities are financed by a System Development Charge (see Olathe Municipal Code Chapter 13.26).

(F) FEE OR UPPER CEDAR CREEK SANITARY SEWER BUY-IN CONNECTION FEE - the fee imposed on applicants for development within the Area which represents a monetary exaction calculated on a pro-rata basis, by acreage, to be paid for connection to the area sanitary sewer system so as to defray the costs, including principal and interest associated with constructing the sanitary sewer system. The fee is in addition and supplemental to all other fees and charges otherwise imposed on Applicants, including but not limited to building permit fees, fees for a certificate of occupancy, tap fees and system development charges, each of which is for a different service.

(G) HOLDING TANK - a watertight receptacle for the retention of sewage either before, during or after treatment.

(H) KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT (KDHE) - the State agency which administers the Kansas Water Pollution Control Revolving Fund (KWPCRF).

(I) LATERALS - sanitary sewer lines emanating from a main trunk sewer line and providing service to subareas within a drainage area.

(J) PERSON - an individual, joint tenants, tenants in common, partnership, corporation or any other legal entity which owns property in the Area.

(K) PRIVATE SEWAGE DISPOSAL SYSTEM - any soil absorption system or evapotranspiration system used for the collection and disposal of domestic sewage from an individual establishment.

(L) PROJECT NO. 14394C - the project to design, engineer and construct the Main Trunk Sewer line, force main and pump station necessary to provide sanitary sewer service to the Upper Cedar Creek Drainage Area.

(M) REVOLVING FUND LOAN - the Kansas Water Pollution Control Revolving Fund (KWPCRF) loan for the Upper Cedar Creek Main Sewers (Project No. 14394C).

(N) SANITARY SEWER SYSTEM or UPPER CEDAR CREEK SANITARY SEWER SYSTEM - the main trunk sewer line, force main, pump station and appurtenant facilities (including planning, design, engineering, land acquisition, right-of-way acquisition and other costs directly related to the provision of these facilities) necessary to extend the sanitary sewer system to the area, but excluding "extra capacity facilities" and laterals.

(O) SEPTIC TANK - a watertight, accessible covered receptacle designed and constructed to receive and to process sewage through settling of solids and digestion of accumulated solids by aerobic action.

(P) TAP FEE - the nominal fee charged by the City to reflect the cost incurred by the City for inspection of an applicant's actual connection to City sewer lines. (Ord. 94-71 § 1, 1994.)

### **13.30.040 General Provisions and Applicability.**

(A) Term. The fee shall remain in effect until the principal and interest on the revolving fund loan is repaid in full or until the City is reimbursed in full for principal and interest payments made on the revolving loan or until such fee is repealed, amended or modified by the Governing Body in accordance with applicable law.

(B) Annual Review. At least once each year prior to Governing Body adoption of the annual fiscal year budget and capital improvements program, the City shall prepare a report summarizing: The fee income received during the preceding year, the annual and cumulative acreage for which the fee has been paid, the number of connections to the sanitary sewer system from the area, the level of subdivision activity in the area, any changes in the design, engineering or provision of the sanitary sewer system and any prospective changes in the area that would affect the provision of sanitary sewer service.

(C) Type of Development Affected.

(1) All applicants for connection permits to the sanitary sewer system shall be required to pay the applicable fee.

(2) All persons whose property or development is served by a private sewage disposal system, septic tank and/or holding tank which is determined, pursuant to Olathe City Code Chapter 15.17 and Appendix I thereto, to violate the standards and conditions thereof and to be, in fact, dangerous, unsafe, unsanitary, or a menace to life, health and property may be required to connect to the sanitary sewer system, to obtain a connection permit and to pay the fee.

(D) Type of Development Not Affected. Applications for building permits, certificates of occupancy, for rezoning of property, for subdivision approval and for the use of land, such as agriculture, which do not require sanitary sewer service, shall not be required to pay the fee at the time of such applications; provided, however, that when applications for connection permits to the sanitary sewer system are made with respect to such properties, fee payment will be required and shall be a condition precedent to such connection.

(E) Effect of Fee Requirement and Payment on Land Use. Neither the requirement for payment of the fee nor the actual fee payment shall affect in any way the permissible use of property, the permissible density/intensity of development, applicable design and improvement standards or otherwise applicable City land use and development regulations, all of which shall be operative and remain in full force and effect without limitation. This fee payment requirement is a separate, independent and additional requirement. (Ord. 94-71 § 1, 1994.)

### **13.30.050 Determination of Fee Amount.**

(A) Methodology. The fee shall be determined by (1) calculating the cost of the sanitary sewer system, including principal and interest needed to repay the revolving loan fund or to reimburse the City in full for such payments; (2) determining the land area in acres, within the Area excluding right-of-way; and (3) dividing the total principal and interest costs by the acreage, excluding rightof-way, within the Area.

(B) Calculation.

(x) = Principal and interest cost of Sanitary Sewer System.

(y) = acres within Area, excluding right-of-way.

(F) = Fee per acre.

$$\frac{(x)}{(y)} = (F)$$

(Ord. 94-71 § 1, 1994.)

### **13.30.060 Imposition, Calculation and Collection of Fee.**

(A) Collection of Fee. The applicable fee shall be imposed on all applicants, as that term is defined herein.

(B) Calculation of Fee As To Specific Applicant. Upon receipt of an application for a connection permit to the sanitary sewer system from an applicant within the area, the City official in receipt of such application shall provide the applicant with an "Upper Cedar Creek Drainage Area Sewer Buy-In Connection Fee Payment Form," which shall include, but not be limited to, the following information: the name, address and telephone number of the property owner(s); the general location of the property; the size of the parcel which will be affected by the application; the total acreage of the property owners' land holdings in the area; the existing use of and the existing development on the property, if any; and the date of application for the connection permit to the sanitary sewer system.

(C) Effect of Failure of Applicant to Pay Fee When Due. If a connection is made to the sanitary sewer system without a connection permit being issued, the fee shall be immediately due and payable. In addition to all other remedies available to the City for such unlawful connection to the sanitary sewer system, the City Attorney may bring such appropriate legal proceedings, in law or in equity, as are necessary to collect the fee and/or to prevent use of the sanitary sewer system by such property owner.

(D) Collection of Fee. The City Manager, or his duly designated representative, shall collect the full amount of the fee prior to or at the time of application for a connection permit to the sanitary sewer system. No connection permit shall be issued nor shall connection be authorized until the fee is paid in full. Once the fee has been paid, no fee refunds shall be made for any reason. (Ord. 94-71 § 1, 1994.)

**13.30.070 Establishment of Fee Account.** An interest-bearing Upper Cedar Creek Sanitary Sewer System Buy-In Connection Fee Account ("account") shall be established by the Director of Finance of the City, which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All fees collected shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the fees collected and deposited to such account are utilized only for the purposes specified herein and pursuant to applicable legal requirements. (Ord. 94-71 § 1, 1994.)

**13.30.080 Limitation on Use of Funds.** Fees collected and deposited to the account may be used only for the purpose of funding the cost of providing the sanitary sewer system in the area, including, but not limited to, the repayment of principal and interest on the revolving loan and/or reimbursement to the City for payments of principal and interest on the revolving loan. (Ord. 94-71 § 1, 1994.)

### **13.30.090 Appeals.**

(A) Grounds for Appeal. Any person who objects to a decision or determination by the City Manager with respect to the applicability of the fee to a specific development, the calculation of the fee due as to a specific applicant, the collection of the fee, the withholding of a connection permit due to failure of the applicant to pay a fee, the failure to refund a fee or as to the proper use of fee revenues, may file an appeal in writing with the Governing Body.

(B) Time Limit for Filing an Appeal. The applicant must file an appeal from any decision or determination by the City Manager, or his designated representatives, within ten (10) days following the decision or determination,

(C) Form of Appeal. No precise form of appeal is required, but the applicant shall include, at a minimum, the following information: name, address and telephone number of the applicant, the general location of the property within the area; the size of the parcel affected by the application; the total acreage of the property owner's land holdings in the area; the existing use of and/or the existing development on the property; the date of application for a connection permit to the sanitary sewer system; and the grounds for the appeal.

(D) Scheduling of Hearing of Appeal. The City Clerk shall schedule the hearing of the appeal at a regular or special meeting of the Governing Body not sooner than twenty (20) days following the decision or determination appealed from. The appellant shall be given not less than ten (10) days notice of the date, time and place of the hearing of the appeal.

(E) Action by Governing Body on the Appeal. Prior to reaching a decision on the appeal, the Governing Body may refer the appeal to the City Manager or, through the City Manager, to appropriate City staff for the preparation of a report on the facts and circumstances underlying the appeal. In considering the appeal, the Governing Body may affirm, modify, extend or overrule the decision or determination of the City Manager; provided, however, that any such action shall be consistent with the provisions of this Chapter and with applicable City ordinances and State and federal law. The burden of proof shall be on the applicant to demonstrate that the decision or determination of the City Manager was erroneous. All decisions by the Governing Body shall be in writing and the decision rendered shall be deemed to be a final administrative decision.

(F) Notice to Appellant. The action of the Governing Body on the appeal shall be taken at a public meeting of which the applicant has been given notice.

(G) Stays. The filing of an appeal by appellant prior to fee payment shall not stay the collection of the fee as calculated by the City Manager if the applicant subsequently applies for a connection permit. The filing of an appeal by appellant subsequent to fee payment shall not stay the deposit of the fee into the account nor the appropriation and expenditures of the fee for the sanitary sewer system. (Ord. 94-71 § 1, 1994.)

**CHAPTER 13.31. Cedar Creek Interceptor Collection System Development and Buy-In Connection Fee.** Repealed 8-15-2006. (Ord. 06-90 § 1, 2006; Ord. 05-07 § 1, 2005.)

## CHAPTER 13.32

### WATER WELLS

#### Sections:

13.32.010	Definitions
13.32.020	Inspection Requirements
13.32.030	Water Well Sampling Requirements
13.32.040	Responsibility for Inspection and Sampling Fees
13.32.050	Construction and Connection Requirements
13.32.060	Adoption of State of Kansas Construction, Location and Abandonment Regulations
13.32.070	Water Well Record
13.32.080	Request for Waivers
13.32.090	Referral of Waivers
13.32.100	Inspection
13.32.105	Water Wells in Contaminated Areas
13.32.110	Penalty

**13.32.010 Definitions.** Unless otherwise specified, the following terms as used in this code shall mean as follows:

**BACTERIOLOGICALLY SAFE WATER SAMPLE** means a water sample collected by the health officer and analyzed by a certified laboratory that is determined to have no detectable fecal coliform in 100 ml.

**CERTIFIED LABORATORY** means a laboratory certified by the Environmental Protection Agency or any EPA-approved state water quality certification procedures to conduct tests for specific parameters.

**CONTAMINATED AREA** means an area designated by official action of the Environmental Protection Agency or Kansas Department of Health and Environment as having groundwater that is environmentally contaminated to an extent that requires remediation or similar action for the protection of human health and the environment.

**CONTAMINATED WATER SAMPLE** means a water sample which does not meet public drinking water standards. A water sample that does meet public drinking water standards for bacteria is defined as being a bacteriologically safe water sample.

**DEPARTMENT** means the City of Olathe Municipal Services Department.

**HEALTH OFFICER** means the director of the Municipal Services Department or his or her authorized representative.

**PERSONAL USE** means the use of water from a well for purposes including drinking, cooking, bathing and sewage disposal.

**PIT WELL** means any well installed in a structure or excavation below grade, including but not limited to wells in pits, vaults or storm cellars.

**SCREENING TESTS** are preliminary water tests performed through the use of disposable color change strips or appliances to determine if further testing is required.

**WATER WELL** means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.

### **13.32.020 Inspection Requirements.**

A. The Municipal Services Department is authorized to inspect newly constructed, reconstructed, existing or abandoned water wells.

B. The property owner shall notify the Municipal Services Department of the existence of any water well at the time of construction, reconstruction, or abandonment, and of any existing active, inactive, or abandoned water well prior to the transfer of ownership of any property.

### **13.32.030 Water Well Sampling Requirements.**

A. The Municipal Services Department is authorized to collect samples from private water wells for bacteriological, organic, or inorganic analysis of newly constructed or reconstructed water wells, and existing wells prior to the transfer of ownership of any property.

1. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.

2. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the Municipal Services Department to obtain a potable water supply for personal use. These actions may include but are not limited to: abandoning the well and connecting to a public water supply; abandoning the well and connecting to a cistern; or installing a water treatment system designed to treat the type of contamination to an acceptable level to be considered potable water by the Kansas Department of Health and Environment.

B. The Municipal Services Department is authorized to collect water samples from semi-public water wells for an annual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe sample is obtained.

2. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the health department to obtain a potable water supply for personal use.

C. The Municipal Services Department is authorized to collect water samples from noncommunity water supplies for a semiannual bacteriological analysis and for organic or inorganic chemical analysis, if positive results are obtained through screening tests.

1. Until a bacteriologically safe or uncontaminated sample has been obtained, the property owner must meet the following requirements:

a. Any water used for cooking or human consumption must be bottled water from a source approved by the health department.

b. Any ice used on the premises must be packaged ice from a source approved by the health department.

c. Any water used for sanitizing must be sanitized by a chemical additive or by heating as approved by the health department.

2. If a bacteriologically safe water sample is not obtained, the property owner must have the water well disinfected and sampled until a bacteriologically safe water sample is obtained.

3. If a contaminated sample is obtained, the property owner must take whatever action is deemed necessary by the health department to obtain a potable water supply for personal use.

D. All water sampling and testing shall be completed by a Kansas Department of Health and Environment certified laboratory.

**13.32.040 Responsibility for Inspection and Sampling Fees.** The property owner shall be responsible for any inspection and sampling fees. The fees for the inspections and sampling are to be determined by the Municipal Services Department and shall be established by resolution yearly.

**13.32.050 Construction and Connection Requirements.** The property owner shall be responsible for meeting the following requirements:

A. All active, inactive, or abandoned water wells are to meet current construction, location, and plugging standards.

B. Personal use water wells are to meet the following pump and pressure tank standards:

1. Pumps shall be a minimum of 1/3 horsepower and be mounted to be free from flooding, pollution and freezing.

2. Pressure tanks must have a minimum capacity of forty-two (42) gallons. However, pressurized tanks and other pressurizing devices are acceptable provided that delivery between pump cycles equals or exceeds that of a standard forty-two (42) gallon tank.

C. The separation distance between wells and soils or foundations which have been treated or pretreated with a sub-surface pressurized application of a termiticide shall be a minimum of twenty-five (25) feet.

D. Pressure Water Line and Sewer Line Requirements.

1. The sewer line is to be two (2) or more feet below the water line, or:

2. If a sewer line is within ten (10) feet of a water line, the sewer line is to be constructed of cast iron pipe with fitted joints or approved plastic pipe with solvent weld joints.

3. A water well shall not be located within 100 feet of a septic tank, absorption field, waste stabilization pond, feedlot, or other source of pollution.

E. The property owner is to have personal use water wells disconnected and connection made to a public water supply system at the time the property is offered for sale or rent, if:

1. A public water supply system is within two hundred (200) feet of the property lines; and

2. A potable water sample cannot be obtained from a properly constructed and located existing well or a newly constructed water well.

F. No new water well shall be constructed if a public water supply system is within two hundred (200) feet of the property line, except for the purpose of irrigation and other outside, nonpotable water use.

**13.32.060 Adoption of State of Kansas Construction, Location and Abandonment Regulations.** Water well regulations as specified in the Kansas Statutes Annotated Groundwater Exploration and Protection Act, 82a-1201, *et seq.*, and amendments thereto and Water Well Contractor License; Water Well Construction and Abandonment, Kansas Administrative Regulations 28-30-2, *et seq.*, and amendments thereto shall be incorporated by reference and adopted as regulations for water wells in the corporate limits of the city.

**13.32.070 Water Well Record.** Within thirty (30) days after construction or reconstruction of a water well, the water well installer, whether a licensed water well contractor or property owner, shall submit a copy of the water well record to the Municipal Services Department.

**13.32.080 Request for Waivers.** A request for a waiver from any of the foregoing rules and regulations shall be submitted to the Municipal Services Department by the property owner in writing and shall contain all information relevant to the request.

A. The request shall specifically set forth why an exception should be considered.

B. The Municipal Services Department may grant a waiver when conditions warrant, and when a waiver is in keeping with the purposes of the Kansas Water Well Construction and Abandonment Administrative Regulations 28-30-2, *et seq.*

**13.32.090 Referral of Waivers.** If required, a request for waiver will be referred to the Kansas Department of Health and Environment for consideration prior to the issuance of a waiver by the Municipal Services Department.

**13.32.100 Inspection.** The health officer shall be responsible for the enforcement of this chapter and is authorized to make such investigations, inspections, to issue notice, orders and directions, to take such actions and carry out such activities as necessary for enforcement of this chapter.

**13.32.105 Water Wells in Contaminated Areas.**

A. From and after the date of the ordinance codified in this section, no new water well shall be constructed and used for personal use if the health officer determines that such well is in a contaminated area or within five hundred (500) feet of a contaminated area.

B. Any existing water well shall cease to be used for personal use if the health officer determines that (1) the well is in a contaminated area or is within 500 feet of a contaminated area, (2) public water is available to the water well user, and (3) the cessation of use of the water well for personal use is in the best interest of public health, safety and welfare.

**13.32.110 Penalty.** Any person, individual, partnership, corporation or association who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars (\$500) or by imprisonment of not more than six (6) months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder. (Ord. 03-17 § 1, 2003.)

## CHAPTER 13.34

### WATER CONSERVATION

#### Sections:

13.34.010	Purpose
13.34.020	Definitions
13.34.030	Declaration of Water Watch
13.34.040	Declaration of Water Warning
13.34.050	Declaration of Water Emergency
13.34.060	Voluntary Conservation Measures
13.34.070	Mandatory Conservation Measures
13.34.080	Violations and Penalties

**13.34.010 Purpose.** The purpose of this ordinance is to provide for the declaration of a water supply watch, warning or emergency and the implementation of voluntary and mandatory water conservation measures throughout the City in the event such a watch, warning or emergency is declared. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

#### **13.34.020 Definitions.**

(a) “Water”, as the term is used in this ordinance, shall mean water available to the City of Olathe, Kansas for treatment by virtue of its water rights or any treated water introduced by the City into its water distribution system, including water offered for sale at any coin-operated site.

(b) “Customer”, as the term is used in this ordinance, shall mean the customer of record using water for any purpose from the City’s water distribution system and for which either a regular charge is made or, in the case of coin sales, a cash charge is made at the site of delivery.

(c) “Waste of water”, as the term is used in this ordinance, includes, but is not limited to: 1) permitting water to escape down a gutter, ditch or other surface drain; or 2) failure to repair a controllable leak of water due to defective plumbing. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.030 Declaration of Water Watch.** A “Water Watch” is in effect when a combination of two or more of the following conditions occurs:

(a) Daily water demand for 3 consecutive days is in excess of 90% of the available Olathe raw water yield.

(b) Daily water demand for 3 consecutive days is in excess of 90% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 80% prior to 5 a.m.

(d) The Governor declares a “Drought Watch” for Johnson County.

The “Water Watch” will be terminated when the triggering events have ceased to exist. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.040 Declaration of Water Warning.** As the water supply problems become more severe, a “Water Warning” will be implemented. A “Water Warning” is in effect when any combination of two or more of the following conditions occurs:

(a) Daily demand for 3 consecutive days is in excess of 95% of the available Olathe raw water yield.

(b) Daily water demand for 3 consecutive days is in excess of 95% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 70% prior to 5 a.m.

(d) The Governor declares a “Drought Warning” for Johnson County.

The “Water Warning” shall terminate when the triggering events have ceased to exist for a period of fourteen (14) consecutive days, or when substantial changes in weather conditions occur, affecting water demands. Upon termination of a “Water Warning”, a “Water Watch” becomes operative. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.050 Declaration of Water Emergency.** As the water supply problem continues to deteriorate, a “Water Emergency” will be implemented. A “Water Emergency” is in effect when any combination of two or more of the following conditions occurs:

(a) Daily water demand for 2 consecutive days is in excess of 100% of the available Olathe raw water yield.

(b) Daily water demand for 2 consecutive days is in excess of 100% of the treatment capacity of all Olathe treatment facilities.

(c) Total system storage does not recover above 60% prior to 5 a.m.

(d) The Governor declares a “Drought Emergency” for Johnson County.

The “Water Emergency” shall be terminated when the triggering events have ceased to exist for a period of fourteen (14) consecutive days. Upon termination of a “Water Emergency”, a “Water Warning” becomes operative. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.060 Voluntary Conservation Measures.** Upon the declaration of a “Water Watch” as provided in this ordinance, the City Manager is authorized to call on all water customers to employ voluntary water conservation measures to reduce outdoor water use including, but not limited to, the following:

(a) Voluntarily implement an alternate day (odd/even) schedule for outdoor watering.

(b) Limit nonessential outdoor water uses and implement wise outdoor watering.

(c) Water between 6 p.m. and 6 a.m.

(d) Limit, or eliminate, outdoor water use on weekends.

(e) Use a soaker hose to apply water efficiently to plants.

(f) Limit car washing at home or use a commercial carwash that recycles water.

(g) Avoid hosing down outside areas, such as sidewalks, patios and driveways. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.070 Mandatory Conservation Measures.** Upon the declaration of a “Water Warning” as provided in this ordinance, the City Manager is authorized to call on all water customers to implement certain mandatory restrictions on outdoor water use, including, but not limited to, the following:

(a) A mandatory odd/even lawn watering schedule (or equivalent demand reduction procedures) will be imposed on all water customers. These restrictions shall not apply to any person, firm or corporation engaged in the business of growing or selling plants of any kind or commercial car washes. Additional exceptions may be granted on a case-by-case basis.

(b) Outdoor water use, including lawn watering and car washing, will be restricted to after 6:00 p.m. and before 6:00 a.m.

(c) Golf courses will be restricted from watering with potable water.

(d) Procedures that provide a water demand reduction that is equivalent to odd/even watering schedules will be considered on a case-by-case basis.

Upon the declaration of a "Water Emergency" as provided in this ordinance, the City Manager is also authorized to implement additional mandatory restrictions on outdoor water use. The following restrictions will be in effect during a "Water Emergency": outdoor water use with potable water will be prohibited. This includes, but is not limited to, the following: water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, or the exterior of any building or structure. Only non-potable water sources may be used to perform outdoor watering. In addition, the City Manager may temporarily terminate water service to a customer operating an irrigation system in violation of the "Water Emergency" provisions. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

**13.34.080 Violations and Penalties.** The ordinance authorizes the City Manager to enforce the provisions of the ordinance. Enforcement will be made in the following manner.

(a) It shall be unlawful to violate any of the provisions of this ordinance. No person shall be convicted of violating this ordinance unless such person in fact turned on water, directed the turning on of water or kept water turned on after learning it was turned on in violation of this ordinance, or failed to turn off automatic devices capable of turning on water in violation of this ordinance. It will not be necessary, however, to present a witness who saw the accused turning on the water, if the circumstances indicated the accused did turn on the water.

(b) In the event of a violation, a written notice of the violation shall be provided to the customer of record by personal service, or by delivering the same to and leaving it with some person of suitable age and discretion upon the premises; or, if no person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of said premises and by mailing a copy thereof to such person by registered or certified mail to his/her last known address. Said notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the City determines is reasonable under the circumstances.

(c) Any person, firm or corporation violating any provisions of this ordinance, including failing to comply with any notice or order issued pursuant to 13.34.080(b), shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for a first conviction; not less than Two Hundred Dollars nor more than Five Hundred Dollars (\$500.00) for a second or subsequent conviction. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 04-60 § 1, 2004; Ord. 03-35 § 1, 2003.)

## CHAPTER 13.36

### CLARE ROAD WATERLINE BUY-IN CONNECTION FEE

#### Sections:

- 13.36.010 Purpose and Intent.
- 13.36.020 Authority.
- 13.36.030 Definitions.
- 13.36.040 General Provisions and Applicability.
- 13.36.050 Determination of Fee Amount.
- 13.36.060 Imposition, Calculation and Collection of Fee.
- 13.36.070 Establishment of Fee Account.
- 13.36.080 Limitations on Use of Fees.
- 13.36.090 Appeals.

#### **13.36.010 Purpose and Intent.**

A. Purpose. The Clare Road Waterline Buy-In Connection Fee ("Fee") has been established and will be imposed for the purpose of creating a source of funds to reimburse the City of Olathe (the "City") for principal and interest payments made to construct and install the Clare Road Waterline, 111<sup>th</sup> to 119<sup>th</sup> Street, Project No. 5-C-074-10 of the City, which includes approximately 4,150 L.F. of 12" DIP waterline from 112<sup>th</sup> Street to 119<sup>th</sup> Street along Clare Road and approximately 5,010 L.F. of 8" DIP waterline from Clare Road to Cedar Creek Wastewater Treatment Plant, along 119<sup>th</sup> Street (the "Project"). The Project is required to provide potable water to the public and to Cedar Creek Wastewater Treatment Plant.

B. Intent. The City finds that a Fee will best enable the City to extend the necessary potable water system to portions of the Clare Road Area (as identified in "Exhibit A" and Exhibit "B"). This Area has not yet developed and currently is not served by City waterlines. The City anticipates significant new development that will require waterlines in order to develop in the future.

Therefore, in order to promote and protect the public health, safety and welfare of residents and property owners within the Area and in the City as a whole, the City intends to: (1) provide the necessary potable water system to the Area through the construction of a main waterline and appurtenant facilities; (2) establish the cost thereof; (3) allocate the cost on a per acre basis within the Area to reflect the relative (pro rata) need for the Project by such properties and to ensure that such properties receive reasonable benefits therefrom; (4) collect such Fee in full at the time of connection to the potable water system; (5) restrict the use of the Fees collected to reimbursement to the City for payments of principal and interest on the City's water and sewer revenue bonds; and (6) ensure that all applicable legal standards and criteria are properly incorporated herein.

C. Legislative Intent. The City's intent is to exercise its police power to establish a Fee for the provision of an essential service in an amount sufficient to fund the capital improvements necessary to provide the service to the defined geographic Area which will benefit from the provision of the service and in which such service is presently not provided.

D. Findings.

1. The City has undertaken studies to determine the most cost effective manner in which to provide potable water service to the Clare Road Area, including, but not limited to, considerations of current growth and development in the Area, estimated future growth and development, capacity analyses, and estimated peak hour demands.

2. The City finds that the allocation of the costs of providing such potable water service to the defined geographic Area, much of which is presently undeveloped and in which ultimate uses, densities/intensities and types of development are presently unknown, will be best met by utilizing a per acre Fee which equitably spreads the costs of the Project throughout the defined geographic Area on Exhibits A and B.

3. The City further finds that, because the Fee is imposed and collected only at the time of connection to the Project, is a one-time charge, is voluntary (only imposed if connection is applied for and made) and reflects only the actual cost of providing the service, the Fee has none of the characteristics of and, therefore, is not a tax nor a special assessment.

4. The City has authorized the Project in the 2010-2014 Capital Improvements Program and has designated funding for design/inspection, construction, and financing from the City Water and Sewer Fund. (Ord. 09-66 § 1, 2009.)

**13.36.020 Authority.** Chapter 13.36 of the Olathe Municipal Code was enacted pursuant to the authority of (1) K.S.A. § 12-856 and 860 relating to and authorizing, *inter alia*, the establishment of rates and charges for water, including the cost of extension and enlargement of the water system, and (2) Section 5 of Article 12 of the Kansas Constitution (the "Home Rule Amendment") empowering cities to determine their local affairs and government through the enactment of home rule ordinances. (Ord. 09-66 § 1, 2009.)

**13.36.030 Definitions.** As used in this Chapter, the following words and terms shall have the meaning herein indicated:

**APPLICANT** – any person in the Clare Road Area who makes an application for a connection permit to connect to the Project.

**AREA or CLARE ROAD AREA** – that Area within the City limits of the City of Olathe and outside of such City limits that will be served by the main waterlines and appurtenances thereto, which is described on the Legal Description attached hereto and incorporated herein by reference as Exhibit A and which is shown on the Map attached hereto and incorporated herein by reference as Exhibit B. To the extent of any conflict between the Map and the Legal Description, the Legal Description shall control.

The Area includes all properties which can be served by the Project, including properties presently outside of the City limits. Connections to the Project by Applicants outside of the City limits shall be permitted only upon or after annexation of such property to the City, unless otherwise provided by a written agreement requiring immediate connection to City water service once the City provides such service to the Applicant's property line.

**EXTRA CAPACITY FACILITIES** – improvements to the City-wide potable water system that provide increased capacity to serve new or expanded development.

**FEE OR CLARE ROAD WATERLINE BUY-IN CONNECTION FEE** – the Fee imposed on Applicants for development within the Area which represents a monetary exaction calculated on a pro-rata basis, by acreage, to be paid for connection to the Project so as to defray the costs of the Project, including principal and interest associated with constructing the Project. The Fee is in addition and supplemental to all other fees and charges otherwise imposed on Applicants, including but not limited to building permit fees, fees for a certificate of occupancy, tap fees and any other applicable charges or exactions, each of which is for a different service.

**PERSON** – an individual, joint tenants, tenants in common, partnership, corporation or any other legal entity which owns property in the Area.

**PROJECT** – the design, engineering and construction of the Clare Road Waterline, 111<sup>th</sup> to 119<sup>th</sup> Street, Project No. 5-C-074-10 of the City, which includes approximately 4,150 L.F. of 12" DIP waterline from 112<sup>th</sup> Street to 119<sup>th</sup> Street along Clare Road and approximately 5,010 L.F. of 8" DIP waterline from Clare Road to Cedar Creek Wastewater Treatment Plant, along 119<sup>th</sup> Street. The Project is required to provide potable water to the public and to Cedar Creek Wastewater Treatment Plant.

**TAP FEE** – the nominal fee charged by the City to reflect the cost incurred by the City for inspection of an Applicant's actual connection to City waterlines.

**WATER MAIN** – any public water main installed on public right-of-way or utility easement in accordance with City requirements and that has been accepted by the City as a public water main.

**WATER SERVICE CONNECTION** – any connection of a private waterline into the City’s water system, including a fire line connection. All Water Service Connections shall be made in accordance with Section 13.05.070 of the Olathe Municipal Code.

**WATER SERVICE CONNECTION PERMIT** – the permit required for connection to the City's potable water system, which requires the payment of a "tap fee" and system development fee as set forth in City of Olathe Municipal Code. (Ord. 09-66 § 1, 2009.)

**13.36.040 General Provisions and Applicability.**

- A. Term. The Fee shall remain in effect until the principal and interest on the City’s water and sewer revenue bonds issued to finance the Project are repaid in full or until such Fee is repealed, amended or modified by the Governing Body in accordance with applicable law.
- B. Annual Review. At least once each year prior to Governing Body adoption of the annual fiscal year budget and capital improvements program, the City shall prepare a report summarizing the Fee income received during the preceding year, the annual and cumulative acreage for which the Fee has been paid, the number of connections to the Project from the Area, the level of subdivision activity in the Area, any changes in the design, engineering or provision of the potable water system and any prospective changes in the Area that would affect the provision of potable water service.
- C. Type of Development Affected.
  - 1. All Applicants for connection permits to the Project shall be required to pay the applicable Fee.
  - 2. All persons whose property or development is served by a private water well system and/or other private water systems which is determined, pursuant to Chapter 15 of the Olathe Municipal Code to violate the standards and conditions thereof and to be, in fact, dangerous, unsafe, unsanitary, or a menace to life, health and property may be required to connect to the Project, to obtain a connection permit and to pay the Fee.
- D. Type of Development Not Affected. Applications for building permits, certificates of occupancy, for rezoning of property, for subdivision approval and for the use of land, such as agriculture, which do not require potable water service, shall not be required to pay the Fee at the time of such applications; provided, however, that when applications for connection permits to the potable water system are made with respect to such properties, Fee payment will be required and shall be a condition precedent to such connection.
- E. Effect of Fee Requirement and Payment on Land Use. Neither the requirement for payment of the Fee nor the actual Fee payment shall affect in any way the permissible use of property, the permissible density/intensity of development, applicable design and improvement standards or otherwise applicable City land use and development regulations, all of which shall be operative and remain in full force and effect without limitation. This Fee payment requirement is a separate, independent and additional requirement. (Ord. 09-66 § 1, 2009.)

**13.36.050 Determination of Fee Amount.**

- A. Methodology. The Fee shall be determined by (1) calculating the cost of the potable water system, including principal and interest needed to reimburse the City in full for its water and sewer revenue bond payments; (2) determining the land area in acres, within the Area excluding right-of-way; and (3) dividing the total principal and interest costs by the acreage, excluding right-of-way, within the Area.

B. Calculation.

(x) = Principal and interest cost of Potable Water System.

(y) = acres within Area, excluding right-of-way.

(F) = Fee per acre.

(A) = Acres to be served by property owner by petition.

(T) – Total Fee per property.

$$\frac{(x)}{(y)} = (F)$$

$$(F) \times (A) = (T)$$

(Ord. 09-66 § 1, 2009.)

**13.36.060 Imposition, Calculation and Collection of Fee.**

A. Collection of Fee. The applicable Fee shall be imposed on all Applicants in the Area, as that term is defined herein. The Fee shall be collected upon receipt of an application for a connection permit to the Project from an Applicant within the Area. Upon receipt of such an application, the City official in receipt of such application shall provide the Applicant with an "Clare Road Area Waterline Buy-In Connection Fee Payment Form," which shall be completed by the Applicant and shall include, but not be limited to, the following information: the name, address and telephone number of the property owner(s); the general location of the property; the size of the parcel which will be affected by the application; the total acreage of the property owners' land holdings in the Area; the existing use of and the existing development on the property, if any; and the date of application for the connection permit to the Project.

B. Effect of Failure of Applicant to Pay Fee When Due. If a connection is made to the Project without a Water Service Connection Permit being issued, the Fee shall be immediately due and payable. In addition to all other remedies available to the City for such unlawful connection to the Project, the City Attorney may bring such appropriate legal proceedings, in law or in equity, as are necessary to collect the Fee and/or to prevent use of the Project by such property owner.

C. Collection of Fee. The City Manager, or duly designated representative, shall collect the full amount of the Fee at the time of application for a connection permit to the Project. No connection permit shall be issued nor shall connection be authorized until the Fee is paid in full. Once the Fee has been paid, no Fee refunds shall be made for any reason. The Fee shall be collected until the end of the Term as set forth in Section 13.36.040 A. (Ord. 09-66 § 1, 2009.)

**13.36.070 Establishment of Fee Account.** An interest-bearing Clare Road Waterline System Buy-In Connection Fee Account ("account") shall be established by the Director of Resource Management or designee of the City, which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All Fees collected shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the Fees collected and deposited to such account are utilized only for the purposes specified herein and pursuant to applicable legal requirements. (Ord. 09-66 § 1, 2009.)

**13.36.080 Limitation on Use of Funds.** Fees collected and deposited to the account may be used only for the purpose of funding or reimbursing the City for the cost of constructing the Project, including, but not limited to, reimbursement to the City for payments of principal and interest on its water and sewer revenue bonds issued to finance the Project. (Ord. 09-66 § 1, 2009.)

### **13.36.090 Appeals.**

A. Grounds for Appeal. Any person who objects to a decision or determination by the City Manager with respect to the applicability of the Fee to a specific development, the calculation of the Fee due as to a specific Applicant, the collection of the Fee, the withholding of a connection permit due to failure of the Applicant to pay a Fee, the failure to refund a Fee or as to the proper use of Fee revenues, may file an appeal in writing with the Governing Body.

B. Time Limit for Filing an Appeal. The Applicant must file an appeal from any decision or determination by the City Manager, or designated representatives, within ten (10) days following the decision or determination.

C. Form of Appeal. No precise form of appeal is required, but the Applicant shall include, at a minimum, the following information: name, address and telephone number of the Applicant, the general location of the property within the Area; the size of the parcel affected by the application; the total acreage of the property owner's land holdings in the Area; the existing use of and/or the existing development on the property; the date of application for a connection permit to the potable water system; and the grounds for the appeal.

D. Scheduling of Hearing of Appeal. The City Clerk shall schedule the hearing of the appeal at a regular or special meeting of the Governing Body not sooner than twenty (20) days following the decision or determination appealed from. The appellant shall be given not less than ten (10) days notice of the date, time and place of the hearing of the appeal.

E. Action by Governing Body on the Appeal. Prior to reaching a decision on the appeal, the Governing Body may refer the appeal to the City Manager or, through the City Manager, to appropriate City staff for the preparation of a report on the facts and circumstances underlying the appeal. In considering the appeal, the Governing Body may affirm, modify, extend or overrule the decision or determination of the City Manager; provided, however, that any such action shall be consistent with the provisions of this Chapter and with applicable City ordinances and State and federal law. The burden of proof shall be on the Applicant to demonstrate that the decision or determination of the City Manager was erroneous. All decisions by the Governing Body shall be in writing and the decision rendered shall be deemed to be a final administrative decision.

F. Notice to Appellant. The action of the Governing Body on the appeal shall be taken at a public meeting of which the Applicant has been given notice.

G. Stays. The filing of an appeal by appellant prior to Fee payment shall not stay the collection of the Fee as calculated by the City Manager if the Applicant subsequently applies for a connection permit. The filing of an appeal by appellant subsequent to Fee payment shall not stay the deposit of the Fee into the account nor the appropriation and expenditures of the Fee for the Project. (Ord. 09-66 § 1, 2009.)