

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 21-113(A) OF CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN, OKLAHOMA LIMITING THE OTHER MUNICIPAL GOVERNMENTAL PURPOSES ON WHICH WATER RATES CAN BE SPENT TO UTILITY SERVICES; AND PROVIDING FOR THE SEVERABILITY THEREOF.

- § 1. WHEREAS, the Norman Utilities Authority (“NUA”) was created as of February 2, 1970 for the use and benefit of the City of Norman; and
- § 2. WHEREAS, on December 13, 1973 the City Council of Norman, Oklahoma adopted Ordinance No. O-7374-32, adding a separate article to the Code of Ordinances pertaining to utility billings, charges, rates and service; and
- § 3. WHEREAS, Ordinance No. O-7374-32 codified the language now found in Section 21-113(a) of the Code of Ordinances explicitly stating that water rates and charges are collected to fund “the continued operation, improvement, servicing, and maintenance of the City water system and for other municipal governmental purposes”; and
- § 4. WHEREAS, the City entered into a Lease Agreement and Operation and Maintenance Contract dated as of January 1, 1977 (the “Lease Agreement”) whereby the City leased to NUA all of its then existing and thereafter acquired water and sewer systems (the “System”) for the purpose of providing an efficient operation and maintenance of the System by the City and to provide the NUA with collateral which produces revenues which may be used in repaying bonds, notes or other indebtedness incurred for the System; and
- § 5. WHEREAS, the Lease Agreement was amended in 1984 and continues to provide that the City owns the System, and leases the system to the NUA, which is charged with the operation and maintenance of the System; and
- § 6. WHEREAS, the City bills and collects revenues on behalf of the NUA and provides the employees to bill and collect the revenues and operate and maintain the System; and
- § 7. WHEREAS, the City of Norman began using enterprise fund accounting more than 25 years ago as a method of allocating labor and administrative costs to the various utility funds; and
- § 8. WHEREAS, the City Council, acting as the NUA Trustees, annually appropriates five percent (5%) of Water Utility (and Water Reclamation Utility) revenues to the General Fund as a payment in lieu of property taxes and franchise fees (for the use of publically-owned rights-of-way) similar to what private utilities also pay to the City on an annual basis; and

- § 9. WHEREAS, to achieve optimum interest rates and bond terms, the Norman Utilities Authority has cross-collateralized utility projects with revenues from both water and wastewater utility ratepayers; and
- § 10. WHEREAS, concerns have been expressed by some community members that the language “for other municipal governmental purposes” in Section 21-113(a) should be removed so that water rate revenues could only be used for the “continued operation, improvement, servicing and maintenance of the City water system”; and
- § 11. WHEREAS, Staff has been advised by Bond Counsel, the Financial Advisor for the City, and the Finance Director of the City that removal of the phrase “for other municipal governmental purposes” could require that the NUA refinance all of the revenue bonds that have been cross-collateralized with revenues from both water and wastewater utility ratepayers; could result in increased debt issuance costs, increased risk of default, and higher interest rates on future utility system debt issuances; and could further require the City and NUA to restructure the operation of the NUA to operate more independently from the City of Norman, thereby increasing utility operational costs; and
- § 12. WHEREAS, tightening the language in Section 21-113(a) to allow use of water rates and charges for other municipal governmental purposes “related to providing utility services” addresses the concerns expressed by some community members while remaining consistent with the current operations of the NUA and consistent with cross-collateralization of revenues from utility ratepayers for revenue bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 13. THAT, Section 21-113(a) of Chapter 21 in the Code of Ordinances of the City of Norman, Oklahoma, shall be and is hereby amended to read as follows:

* * * * *

Sec. 21-113. Rates for water service.

- (a) The water rates and charges hereinafter enumerated shall be collected for the purposes of providing funds for the continued operation, improvement, servicing and maintenance of the City water system and for other municipal governmental purposes related to providing utility services.

* * *

§ 14. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this _____ day of

NOT ADOPTED this _____ day of

_____, 2014.

_____, 2014.

Cindy Simon Rosenthal, Mayor

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ATTEST:

Brenda Hall, City Clerk