

ORDINANCE NO. 20-853

**AN ORDINANCING CLARIFYING THE AUTHORITY OF THE UTILITY COMMISSION;
DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, the City of Clarksville, Arkansas ("City") is the owner and regulator of a municipal utility providing electric, water, wastewater, and broadband services; and

WHEREAS, the City has created a commission originally known as the Clarksville Light and Water Commission of the City of Clarksville, Arkansas and currently known as Clarksville Connected Utilities ("Commission") for the purpose of operating and managing the municipal utility within the authority granted by the City; and

WHEREAS, a question has arisen concerning the duty and authority of the Commission to impose rates previously adopted by the City; and

WHEREAS, the City, upon request of the Commission, desires to amend Sections 2.60.03 and 2.60.05 of the Clarksville Municipal Code to clarify the obligations and authority of the Commission related to managing the municipal utility.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clarksville, Arkansas that:

Section 1. Section 2.60.03 of the Clarksville Municipal Code is hereby amended to read as follows:

2.60.03 Powers: limitations.

Service Area. The Commission may from time to time make such enlargements of the plants and such extensions of the service thereof as may be necessary to serve the residents, businesses, and other entities of the city with electric, light, power, and water, wastewater, broadband, and such other services as may hereafter be authorized by the City Council. Except for broadband, the Commission may not make enlargements of the plants or extensions of services outside the city unless authorized by the City Council. ~~but it shall not have the power to increase rates for each kind of product or service to be furnished or rendered by a public utility without the approval of the City Council nor shall it have power to~~

Standard Fees and Rates. The City Council shall establish the standard fees and rates to be charged by the Commission which may be: (i) fixed; (ii) recurring; (iii) based on one or more measurements of usage; (iv) based on calculations referencing verifiable costs and/or indexes; or (v) any combination of the preceding methods. The Commission shall charge and collect standard fees and rates as established by the City Council; except that, if the Commission determines that a standard fee or rate established by City Council will produce excess revenues that are not required for reliable operations, the Commission may charge and collect a lesser amount. When no standard fee or rate applies, the Commission shall charge and collect for goods and services based on cost. If the Commission finds a factual basis for a rate change, the

Commission or its designated representative shall submit a proposed rate change, including the factual basis substantiating such proposed change, to the City Council. The City Council, by majority vote, shall find whether or not proposed rate change shall be implemented.

Debt. The Commission shall not issue any revenue bonds, ~~or~~ revenue notes, or other indicia of debt without the approval of the City Council.

Audit. Each year, after its annual audit report, the Commission shall present to the City Council a summary of its financial condition. The revenue produced and cost of each service delivered by the utility shall be outlined in this report. Indications for any recommended rate adjustments shall be presented.

Section 2. Section 2.60.05 of the Clarksville Municipal Code is hereby amended to read as follows:

2.60.05 Removal of Commissioner.

~~In the event that the Commission or any member thereof shall attempt to exercise their powers in a harmful manner, the~~ The City Council shall have the right to remove a member of the commission for malfeasance, misfeasance, nonfeasance, or other misconduct. ~~The City Council shall~~ conduct a hearing, and if the City Council finds the charges to be true, the City Council may remove such Commissioner by a two-thirds (2/3) vote of the total number of the members of the City Council, and shall appoint a new Commissioner to serve the unexpired balance of such Commissioner's term. The City Council shall also have the power to fill any vacancy caused by death, resignation or inability to serve of any Commissioner, by appointing a new Commissioner, as provided for in 2.60.01. The person so appointed shall serve the unexpired balance of such term.

Editor's notes:

- a. Underlined text reflects additions to the current code.
- b. ~~Strikethrough~~ text indicates deletions from the current code.

Section 3. That the amendment reflected in Section 1 shall entirely replace Section 2.60.03 of the City Code and the amendment reflected in Section 2 shall entirely replace Section 2.60.05 of the City Code.

Section 4. That all ordinances and parts of ordinances in conflict herewith are repealed to the extent of the conflict.

EMERGENCY CLAUSE. It is hereby found and determined that the proper assignment of standard fees and rates is an integral part of utility management and that there is an immediate need to clarify the process through which standard fees and rates are established, charged, and collected; THEREFORE, this ordinance being necessary to the public health and welfare, an emergency is hereby declared to exist, and this

ordinance shall become effective immediately upon passage.


Passed this 14th day of December, 2020.

APPROVED:



David Rieder, Mayor

ATTEST:



Barbara Blackard, City Clerk/Treasurer