

## BROWNTON

### Ordinance No. 89

#### ELECTRIC ORDINANCE OF THE CITY OF BROWNTON, McLEOD COUNTY, MINNESOTA

The City Council of the City of Brownton ordains:

**SECTION 1:** This ordinance is intended to regulate and to establish uniform rules and regulations for all electrical wiring, connections and appurtenances; to provide for the payment for utility services; to determine the responsible party for the payment of utility charges and to otherwise regulate the sale and distribution of electricity within the city.

**SECTION 2:** Definitions and general requirements. Unless otherwise indicated, the following terms and conditions shall apply:

- a. Code Requirements. All wiring, connections and appurtenances shall be installed and performed strictly in accordance with the National Electric Code. Failure to install or maintain the same in accordance therewith or failure to have or permit required inspections shall, upon discovery by the City, be grounds for termination of electrical service to any consumer.
- b. Connections. Connection of any available electrical services to the electric distribution system in the City of Brownton. Application for electrical service is required and will be available at the City Clerk's office. Contractor Request for Electrical Inspection form is to be presented to City Clerk prior to connection. Charges for connection are defined by the City's Electrical Service Policy, and are set by the City Council for resolution.
- c. Delinquent Utility Bills. The City shall endeavor to collect delinquent utility accounts promptly, according to the City of Brownton Utility Policy. The policy may be amended from time to time by the City. In any case, where satisfactory arrangements for payment have not been made, the City may discontinue service to the delinquent customer by disconnecting the electric service at the meter. When electric service to any premises has been disconnected, service shall not be restored, except upon the payment of all delinquent charges, plus a fee for re-connection. The fee for re-connection shall be determined by resolution, from time to time, by the City Council. If disconnection affects the primary heat source for a residential customer during the period from October 1 through April 15, the laws of the State of Minnesota pertaining to Cold Weather Disconnection of Municipal Utilities shall be followed.
- d. Disconnection. The electric supply to any user may be shut off pursuant to City policies for disconnection upon such notice as the council may from time to time determine. The supply may be shut off at any time without notice in the event of an emergency or in the event there is a danger to the electrical system or its integrity.
- e. Electric Rates. The rates to be charged for electric service in the City of Brownton shall be established by resolution of the City Council.

- f. Energy Adjustment Charge (Fuel Adjustment). An Energy Adjustment Charge will be billed to all users of electricity as a separate item on each bill. The EAC rate per KWH will vary from billing period to billing period as it is adjusted by Brownton's wholesale power supplier. The EAC shall be calculated by multiplying the supplier's EAC rate by the customer's monthly KWH energy used. The EAC may be referred to as the Fuel Adjustment on the customer's billing.
- g. Meter. Metering device located at each connection to determine the use of electricity at that location. All electricity drawn from the power lines of the City of Brownton shall be metered. No person shall tamper with, alter, remove or replace a meter without specific authorization from the City to do so.
- h. Minimum Charge: All users who are connected to the City's electric utility service shall pay a minimum monthly service charge for the availability of such service. The service charge shall be established and may be modified by the City Council by a resolution.
- i. Municipal Electric Billings. Monthly charges associated with the electric utility service shall be billed on the monthly utility bill applicable for the premises in accordance with the City policy for such utility service billing.
- j. Available Electrical Services Defined.
  - i. Residential. Single phase, 60 hertz at 120/240 volts, service not exceeding a 200-amp service furnished through one meter and subject to the established rules and regulations of the city. The residential classification shall include dwelling units exclusively for residential purposes, intended for a single-family unit. Individual dwelling units in apartment buildings, condominiums, townhouses, cluster dwellings, etc. shall be classified as residential.
  - ii. Commercial. Single phase, 60 hertz at 120/240 volts not exceeding a 400-amp service furnished through one meter and subject to the established rules and regulations of the city. The Commercial classification shall include units exclusively for commercial purposes.
  - iii. Power Meter. Three phase, 60 hertz at 120/240/480 volts not exceeding 600-amp service furnished through one meter and subject to the established rules and regulations of the city. The Power Meter classification shall include large commercial units requiring three-phase power.
  - iv. Street Lighting. An annual transfer from the General Fund of the City of Brownton to the Electric Utility Fund shall be made in December of each year to cover the cost of un-metered street lights based on the average use of the various street light lamps throughout the city.
  - v. Temporary. Service provided during construction or during an emergency to prevent danger to person or property or for a period of not more than seven (7) months when soil conditions make excavation for underground service impractical. The City shall determine the location of the service and meter. Temporary Services shall be installed at the expense of the consumer.

**SECTION 3:** Liability of Landlord/Owner for Payment of Utility Services. Landlords and/or owners of property and lessees shall be liable for payment of utility services, including electricity furnished by the City in accordance with Ordinance No. 90 regarding the liability of landlord for payment of utility services.

**SECTION 4:** Disconnection for Late Payment.

- a. It is the policy of the City to discontinue utility service to customers for reason of nonpayment of bills only after notice and an opportunity to be heard on disputed bills. The City's form for application for utility service shall contain provisions to the effect:
  - i. That all bills are due and payable on or before the date set forth on the bill; and
  - ii. That if any bill is not paid by or before that date, a notice of disconnection will be personally served or mailed. If the bill is not paid on or before the specified dates in the notice, service will be discontinued for nonpayment; and
  - iii. That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person or his or her choosing and may present orally or in writing his or her complaint and contentions to the City official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.
  - iv. Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for the last thirty (30) days.
  - v. When it becomes necessary for the City to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a re-connection charge in an amount set by City Council.

**SECTION 5:** Application for municipal utility services shall be made upon forms supplied by the city and strictly in accordance therewith. No connection shall be made until consent has been received from the city of make the same. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

**SECTION 6:** Discontinuance of Service. All municipal utilities may be shut off whenever it is found that:

- a. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith; or
- b. Any charge for municipal utility service, or any other financial obligation imposed on the present owner or occupant or the premises served, is unpaid after due notice thereof; or
- c. There is fraud or misrepresentation by the owner or occupant with any application for service or delivery or charges therefor.

**SECTION 7:** Ownership of City Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto shall be and remain in the city, and no person shall own any part or portion thereof; provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

**SECTION 8:** Right of Entry. The city has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances for the purpose of reading utility meters, for the purpose of inspection and repair of meters or a utility system, or any part thereof, and for the purpose of connecting and disconnecting service.

**SECTION 9:** Meter Test. Whenever a consumer shall request the city to test any utility meter in use by him, such a request shall be accompanied by a cash deposit in an amount set by City Council resolution for each meter to be tested. If any such meter is found to be inaccurate, the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate, according to State standards, in its recordings or calculations, it shall be reinstalled and the deposit in an amount set by City Council from time to time shall be retained by the city to defray the cost of such test.

**SECTION 10:** Unlawful Acts.

- a. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture or appurtenance of any municipal utility or municipal utility system or commit any act tending to obstruct or impair the use of any municipal utility.
- b. It is unlawful for any person to make any connection with any municipal utility system without first having applied for and received permission from the city to make the same.
- c. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the city of non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the city.
- d. It is unlawful for any person to by-pass or by any means or device fully or partially circumvent a municipal utility meter or to knowingly use or consume un-metered

utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

**SECTION 11:** Limitation of Liability for Interruption of Electric Service. The city will endeavor to provide continuous but does not guarantee an uninterrupted or undisturbed supply of electric service. The city will not be held responsible for any loss or damage resulting from the interruption or disturbance of service for any cause other than gross negligence of the city. The city will not be liable for any loss of profits or other consequential damages resulting from the use of service or any interruption or disturbance of service.

**SECTION 12:** Collection with Taxes. Whether or not the city has initiated action to shut off services, for electricity, all delinquent accounts, which are on September 30 of each year more than thirty (30) days past due and having been properly mailed to the occupant or owner of the premises, shall be certified by the City Clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. Unpaid electric charges shall not be certified to the County Auditor until notice and opportunity for hearing have been provided to the occupant or owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid, plus penalties, will be certified to the county for collection as other taxes are collected. The notice shall also state that the owner of the premises may, before such certification date, demand a hearing on the matter to object to the certification of unpaid utility charges. Such hearing shall be in a manner determined by the City Council. If after hearing, the City Council finds the amounts claimed as delinquent are actually due and unpaid and that there is no reason why the unpaid charges should not be certified for collection with taxes in accordance with this ordinance, the city may certify the unpaid charges to the County Auditor for collection as other taxes are collected.

**SECTION 13:** Owner Liable. The owner of the premises shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefor to the City.

**SECTION 14:** Assessments. Nothing in this ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected and any delinquent or other charges due for any other utilities.

**SECTION 15:** Civil Action. As an alternative to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by Order of the Court.

**SECTION 16:** Municipal Service Disruptions. In no event will the City be responsible for direct or indirect damages caused by disruptions in the service of this utility whether the same be a complete or partial interruption, including but not limited to low or high voltages or pressure, line blockages, or other fluctuations in the delivery of services.

**SECTION 17:** Ownership of Municipal Utilities. Ownership of all municipal utilities plants, lines, mains, extensions, and appurtenances thereto shall be and remain in the City, and no

person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

**SECTION 18:** Penalties. Any person found to be violating the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding \$1,000.00 for each such violation or incarcerated for a period of not more than ninety (90) days or both. Each day on which such violation shall continue shall be deemed as a separate offense.

**SECTION 19:** Expenses. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

**SECTION 20:** Validity. The validity of any section, subdivision, clause, sentence or provision of this ordinance shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

**SECTION 21:** Right-of-Way to Customer's Premises. The customer shall grant the City, without compensation, right-of-way over and on the customer's premises for the erection and maintenance of the necessary poles, wires, underground cables, and other appurtenances; and if necessary, space on or in building or premises for installing transformers, meters, and other necessary equipment; and permission for the City's authorized agents to enter the customer's premises at all reasonable hours to inspect, maintain, test, repair, and remove the installed equipment, to read meters, and for other purposes necessary to supply electric service to any customer. Tree trimming necessary to keep individual service wires unobstructed will be the customer's expense. The City must be advised of any planned trimming that may damage overhead conductors. No obstructions can be placed over the path of underground cables. Unobstructed access will be maintained for repair or replacement of underground conductors.

**SECTION 22:** City Liability. The City supplies electric energy upon the express condition that it becomes the customer's property after it passes the delivery point, and the City shall not in any event be liable for loss or damage to any person or property and resulting directly or indirectly from the use, misuse, or presence of said electric energy on the customer's premises, or elsewhere after it passes the delivery point to the customer.

**SECTION 23:** Service Interruptions. The City shall not be held liable for service interruptions or changes in service characteristics due to accidents; necessary repairs and adjustments; burn-outs; fire, actions of the elements; strikes, riots, war; service limitations, curtailment, or discontinuance resulting from shortages or inadequate supply; compliance with any government order or regulation; or to any cause beyond the City's control other than the City's willful neglect. The City shall use reasonable diligence to maintain continuous service and, in the event of interruption or change in service characteristics, to restore normal service as quickly as possible.

**SECTION 24:** Disconnection for Repairs. The City reserves the right to discontinue service for the purpose of making repairs, betterment's or extensions on any part of its lines, machinery, plant or system, without notice to customers. The City will strive to restrict

service disconnection to times when it will cause the least inconvenience to the customers and, if possible, will notify the customers in advance of such disconnection. The City will not be held responsible or liable for any injury or damage suffered directly or indirectly by the customer, or any agent or employee of the customer, because notification was not given to the customer of the service disconnection in order to make repairs, betterment, or extensions. If the disconnect is at the customer's request for the purpose of making repairs or improvements, the customer will notify the City and request the disconnect. The customer will be responsible for all costs associated with this type of disconnect and subsequent reconnect.

**SECTION 25:** Discontinuation of Service. Service may be removed or discontinued for any of the reasons listed below. A disconnection/re-connection fee as established by the City Council from time to time will be made when service is discontinued for any reason stated in this subdivision. Prior to disconnection the City will make every attempt to ensure the customer will not be adversely affected for any medical reason or use of medically required equipment. The City shall reconnect or continue service to a customer's residence where a medical emergency exists or where medical equipment requiring electricity necessary to sustain life is in use, provided that the City receives from a medical doctor written certification, or initial certification by telephone and written certification within five business days, that failure to reconnect or continue service will impair or threaten the health or safety of a resident of the customer's household. The customer must enter into a payment agreement.

Service may be refused or discontinued for the following reasons:

- a. Without notice when the utility determines a hazardous condition exists.
- b. Without notice when a customer uses equipment in such a manner as affects the utility's equipment or the utility's service to others.
- c. Without notice when the equipment furnished and owned by the utility has been the object of tampering.
- d. Without notice when there is unauthorized use.
- e. With notice for violation of and/or non-compliance with the City's policies and standards on file at City Hall.
- f. With notice for customer's failure to fulfill his or her contractual obligations for service and/or facilities.
- g. With notice for customer's failure to permit the utility reasonable access to its equipment.
- h. With notice for nonpayment of bill.
- i. With notice for customer's failure to provide the utility with a deposit.

- j. With notice for customer's failure to furnish service equipment, permits, certificates, and/or rights-of-way necessary to serve the customer and specified by the utility as a condition to obtaining service, or for withdrawal or termination of such equipment or permission.

Brownton Ordinance No. 20 is hereby repealed.

This ordinance shall be in full force and effect after its passage and publication.

Adopted the 5<sup>th</sup> day of November 2008.

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Mayor

Attest:

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City Administrator

Published in the Chronicle the 26<sup>th</sup> day of November 2008.