

**ORDINANCE NO. 809**

**AN ORDINANCE AMENDING CHAPTER 86 "UTILITIES", OF THE CODE OF ORDINANCES; AMENDING ARTICLE III, "SEWERS", DIVISION 1. GENERALLY, BY DELETING SECTION 86-106; AMENDING ARTICLE IV, "SERVICE RATES, CHARGES AND BILLING", DIVISION 1. GENERALLY, SECTION 86-186 TO PROVIDE FOR CYCLE BILLING; AMENDING ARTICLE IV, "DEPOSITS", DIVISION 2. GENERALLY SECTION 86-211 THROUGH 89-221 TO PROVIDE FOR REFUND OF DEPOSITS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances;

**WHEREAS**, pursuant to Section 1.03 and Section 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances;

**WHEREAS**, Fla. Stat. §180 defines and sets forth the methods for the administration of municipal public utility services, establishing rates, and collection of deposits;

**WHEREAS**, Fla. Stat. §366 defines and sets forth the methods of establishing rates, adjustments, penalties and exemptions for water and wastewater systems; and,

**WHEREAS**, the City desires to amend Chapter 86 to more effectively address the methods to be used for the monthly utility billing, utility payments in default, establishing the use of deposits and the retention of deposits.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA**, as follows:

**SECTION 1. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE III, "SEWERS" DIVISION 1.** Section 86-106. Deposit Required is hereby deleted in its entirety, reserving the section number.

Sec. 86-106 Reserved.

**SECTION 2. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE IV, "SERVICE RATES, CHARGES AND BILLING," DIVISION 1. GENERALLY. SECTION 86-186.** Section 86-186 is amended as follows:

**Sec. 86-186. When bills payable; penalty for delinquency; service subject to discontinuance.**

(a) Bills for the monthly charges and fees mentioned in this article shall be payable on the 20th calendar day after the billing date and, if such monthly bill shall be and remain unpaid on or after the 20th calendar day after the billing date, a penalty of ten percent shall be imposed and be added to the bill, and, the service (water, sewer, irrigation water, and solid waste collection, if applicable) to the customer shall be subject to discontinuance and shall not be reconnected or resumed after discontinuance until all past due bills and fees are fully paid, together with the discontinuance and reconnection charge as provided in Section 86-187. If the 20th calendar day after the billing date falls on a date in which the City is closed, the monthly charges and fees shall be payable on the next business day in which the City.

(b) Unless otherwise specified herein, monthly bills for charges and fees for water service, sewer service and solid waste collection shall be mailed, or transmitted electronically, to all utility account holders. Where water, sewer or solid waste collection services are furnished to a single account, all charges for said services shall be included on one bill rendered by the City; provided, however, that each such bill shall show water, sewer or solid waste collection charges and fees separately. A monthly bill for an amount less than an administratively determined minimum billable amount, which may be established by the City Manager, shall not be required, and the balance due on any such account shall be added without penalty to the next billing.

**SECTION 3. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE IV,  
"DEPOSITS" DIVISION 2. GENERALLY SECTIONS 86-211 THROUGH 86-221.**

Sections 86-211 through 86-240 are amended as follows:

**Sec. 86-211. Deposits Required.**

(a) The owner, tenant or occupant of each lot or parcel of land within the City, who may become obligated to pay for water, sewer or solid waste collection services, and from the customer applicant therefor, shall pay a deposit as established by the City Council by resolution, as reasonable and equitable, to ensure payment of such water, sewer or solid waste collection fees and charges as the same become due and payable. Such deposits shall be posted with the Finance Department and a receipt obtained therefor before any such service is made to either City water, sewer or solid waste collection services.

(b) The city reserves the right to analyze a customer's account and payment record to determine the amount of deposit required, to ensure payment of any and all sums which may be or become due and owing to the City for such water, sewer or solid waste collection service. If additional deposits are required, such deposits shall be made in that additional amount to be determined in accordance with procedures established by City Council and set forth by resolution.

(c) If an applicant for new or additional water, sewer or solid waste collection service is already served by one of the City's water, sewer or solid waste systems, the deposit required for the existing account shall be deemed sufficient, unless an additional deposit may be required pursuant to Sec. 86-211(b).

**Sec. 86-212. Receipt for deposit.**

For each deposit a receipt shall be prepared and provided to the depositor and the City shall retain a record of such deposit.

**Sec. 86-213. Credit to deposit fund; interest.**

All deposits shall, upon receipt, be credited to the respective water, sewer or solid waste collection deposit fund and shall be held, in trust, until date of refund or until date of default, if any, in payment of bills. The accrued interest on any deposit shall be payable from the respective deposit fund upon date of refund of deposit, upon date of default, if any, in payment of bills, as authorized by the City Manager, or as otherwise required by law.

**Sec. 86-214. Refund of deposits.**

(a) If all bills are promptly paid and no default shall occur, then such deposit shall be refunded in full to the depositor upon discontinuance of service at his or her request, together with accrued interest, if any; or

(b) If all bills are promptly paid and no default shall occur, the City may determine to issue a refund of such deposit for water, sewer or solid waste collection accounts that meet certain criteria. Said criteria shall be established and set forth by resolution of the City Council. Refunds provided under this provision shall be credited to the eligible water, sewer or solid waste collection accounts.

**Sec. 86-215. Procedure for refund.**

(a) Upon demand for or authorization of refund of any deposit, and interest accrued thereon, and provided that there is at the time no outstanding bill or charge legally secured thereby, the finance department shall make such refund forthwith of both principal and interest.

(b) In all cases of refund, or partial refund after charging a deposit with sums due and secured thereby, or in case of complete exhaustion of any such deposit by reason of such charges, notation shall be made on the appropriate city records to the end that such copy may at all times show what charges, if any, have been made against it, and what refund, if any, has been made on account thereof.

**Sec. 86-216. Requests to discontinue service; subsequent customers.**

(a) In every case where a customer ceases to require water, sewer or solid waste collection service, whether by reason of ceasing to occupy the premises served or for any other reason, whether or not such customer shall have been required to post a deposit in accordance with the provisions of this division relating to deposits, such customer shall promptly notify the City and request that service be disconnected.

(b) In every case where such request for disconnection is not made as provided in this section, the regular charges for water, sewer or solid waste collection service will continue to be made against such customer and shall be collectible from him, including charges for water consumed, if any, through such service connection, whether such consumption is by such customer, or by any successor in

occupancy, or otherwise, and whether such consumption is with the knowledge and consent of such customer or not.

(c) Notwithstanding the foregoing provisions of this section, but in addition thereto, each person, before beginning to use water or sewer service from any service connection or solid waste collection services, shall first comply with the provisions of section 86-211 even in those cases, if any, where he may find such service already on and available for use or being provided.

**Sec. 86-217. Deposit required for water used in construction.**

All contractors or builders shall post a minimum meter deposit for construction water. If the final water bill is greater than the amount of deposit, the bill must be paid in full before any further connections will be allowed.

**Sec. 86-218. Transfer fee for meter deposits.**

Any user of the City's solid waste collection, water or sewer system, whether residential or commercial, who wishes to transfer the deposit as required for such service, for any reason permitted by the city, shall be charged a transfer fee, which shall be fixed by the City Council by resolution.

**Secs. 86-219--86-240. Reserved.**

**SECTION 4. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5. CONFLICTS AND REPEALER.** This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where provisions of this Ordinance are in direct conflict with the provisions of such ordinance, which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

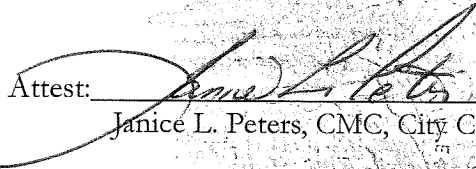
**SECTION 6. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 86, formerly Chapter 17, 1988 Code, as directed herein.

**SECTION 7. CODIFICATION.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Brooksville, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 4, 5, 6, 7 and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

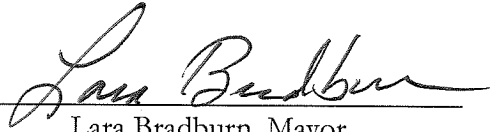
SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect the 1<sup>st</sup> day of August 2010.

CITY OF BROOKSVILLE

Attest:

  
Janice L. Peters, CMC, City Clerk

By:

  
Lara Bradburn, Mayor

PASSED on First Reading June 21, 2010

NOTICE Published on July 9, 2010

PASSED on Second & Final Reading July 19, 2010

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

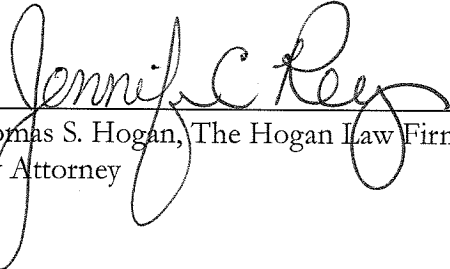
Bernardini AYE

Bradburn AYE

Burnett AYE

Johnston AYE

Lewis AYE

  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney