

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: March 27, 2012		DATE SUBMITTED: 03/16/12	
DEPARTMENT OF ORIGIN: BTU		SUBMITTED BY: Dan Wilkerson	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input type="checkbox"/> DIVERSITY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> EDUCATION
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> GROWTH
<input type="checkbox"/> WORKSHOP	<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> IMAGE
			<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> PUBLIC SAFETY
AGENDA ITEM DESCRIPTION: An Ordinance repealing Ordinance No. 694 and Ordinance No. 740; establishing and providing for electric and water deposit requirements, deposit amounts, exemptions, types of deposits, refund of deposits, electric meter testing, service fees, and discontinuance and reconnection of service; providing a savings clause; providing a severability clause; finding and determining that the meetings at which this ordinance was adopted were open to the public; and providing an effective date.			
SUMMARY STATEMENT: First Reading of an Ordinance to revise the Deposit Ordinance to clarify definitions, change deposits, reduce reconnect fees, and shorten the time after late payment before disconnect from 29 days to 20 days. The Ordinance also clarifies the details of prepayment of utility services. The purpose of these changes is to reduce write offs and reduce fees where AMI can be used for reconnects.			
STAFF ANALYSIS:			
A. PROS: 1. Utility write-offs will be reduced 2. Prepayment of utilities will save customers 3. AMI will save customers who have been disconnected			
B. CONS: 1. Some customers will have to be more prompt in payments			
STAFF'S RECOMMENDATION (Including Rationale and Justification): Approve Deposit Ordinance.			
OPTIONS (In Suggested Order of Staff Preference): 1. Approve deposit Ordinance 2. Make changes to the proposed Ordinance 3. Make no changes to the existing Ordinance			
ATTACHMENTS: New Deposit Ordinance			
FUNDING SOURCE: No funds required			
APPROVALS: Jayson Barfknecht, Public Works Director Dan Wilkerson, BTU General Manager; Hugh R. Walker, 03/16/2012			
APPROVED FOR SUBMITTAL: CITY ATTORNEY			
APPROVED FOR SUBMITTAL: CITY MANAGER			

ORDINANCE NO. _____

AN ORDINANCE REPEALING ORDINANCE NO. 694 AND ORDINANCE NO. 740; ESTABLISHING AND PROVIDING FOR ELECTRIC AND WATER DEPOSIT REQUIREMENTS, DEPOSIT AMOUNTS, EXEMPTIONS, TYPES OF DEPOSITS, REFUND OF DEPOSITS, ELECTRIC METER TESTING, SERVICE FEES, AND DISCONTINUANCE AND RECONNECTION OF SERVICE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS ADOPTED WERE OPEN TO THE PUBLIC; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS THAT:

SECTION 1.

Ordinance No. 694 and Ordinance No. 740 are hereby repealed along with any other ordinances or parts of ordinances in conflict with the provisions hereof.

SECTION 2.

UTILITY DEPOSIT REQUIREMENTS

- A. Persons or businesses requesting utility service from BTU shall furnish security deposits, unless they are exempt from providing such a deposit. Exemptions from furnishing a deposit are addressed in *Section 2 (F) and Section 7*. This applies to both the urban and rural service areas. The security deposit, in the approved form, must be delivered to BTU and BTU shall maintain possession and use of the security deposit except as otherwise stated in the following.
- B. The security deposits that are required are to ensure that total amounts owed are paid to BTU for utility services received, and penalty charges and reconnection fees incurred.
- C. Security deposits shall be refunded according to Section 9 of this ordinance. If security deposits have not been refunded at the time utility services are disconnected, the security deposit shall be applied to the final bill. Any remaining amount due the customer shall be mailed to the forwarding address or the last address furnished to BTU by the customer. For any remaining amount due to BTU, a final bill will be mailed to the forwarding address or the last address furnished by the customer and shall be paid by the due date.
- D. The customer must notify BTU when utility services are to be disconnected. The customer is responsible and obligated for all payments of their account(s) for consumption, services and all other associated fees for the time that services are connected. Payments must be made to BTU and are not assignable to a purchaser or third party.
- E. Customers must complete and sign a BTU application and any other needed documentation before beginning service. If a deposit is required, it shall be furnished prior to connecting services. In special circumstances, payment of a deposit may be postponed up to two (2) weeks. If, for any reason deposits are not furnished, services will be disconnected until the deposit and all applicable fees are paid.
- F. *Customers authorized to have prepay services will sign a Prepay Agreement and they will be exempt from paying a deposit unless they revert to traditional billing, at which time the deposit requirements will be in force.*

- G. If any question arises as to the account for which the deposit was made, BTU shall have the right of election *to determine how credit is applied.*

SECTION 3.

RESIDENTIAL DEPOSITS FOR ELECTRIC, WATER, AND SOLID WASTE UTILITY SERVICE

Applicable to residential customers of the urban and rural systems for all domestic uses except multiple-dwelling units which are served under one meter.

- A. Electric Deposit:

No deposit is required unless customer is renting a residence, apartment, duplex, four-plex, mobile home, townhome, etc. *unless the account is disconnected for non payment* \$145

Minimum Deposit

One-eighth (1/8) of the estimated annual billing, a minimum of \$145.00. Deposit amounts are subject to readjustment at the end of a six-month period.

- B. Water/Sewer Deposit:

Rental residences, apartments, duplexes, four-plexes, mobile homes, townhomes \$15-35.00

Water service established without an electric service requires a minimum deposit of ~~\$40-60.00~~ or another approved method of securing the account, i.e. letter of credit, cosigner, Certificate of Deposit.

- C. Solid Waste Deposit:

Applicable if customer only has solid waste service, no additional deposit required \$10-15.00

SECTION 4.

SMALL COMMERCIAL DEPOSITS FOR ELECTRIC AND WATER UTILITY SERVICES

Applicable to commercial customers and multiple-dwelling units on the urban and rural systems whose peak kilowatt demand does not exceed 15 KW.

- A. Minimum Electric Deposit:

One-eighth (1/8) of the estimated annual billing, a minimum of \$175.00. Deposit amounts are subject to readjustment at the end of a six-month period.

- B. Minimum Water/Sewer Deposit: \$25-85.00

Where billing history is available, deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, if the new business is similar in nature to the previous business.

- C. *Solid Waste Deposit (Flat Rate):* \$50.00

SECTION 5.
COMMERCIAL SERVICE GREATER THAN 15KW

Applicable to all non-seasonal commercial customers on the urban and rural systems where service is taken through one meter at one point of delivery and where the kilowatt demand is ~~between 15.0 KW and 300.0~~ greater.

- A. Minimum Electric Deposit:

\$400.00 plus \$10.00 per KW of estimated demand in excess of 15 KW.

Estimated demand is determined by the most recent billing history or by an on-site inspection by the City. Where billing history is available, deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, if the new business is similar in nature to the previous business.

- B. Minimum Water/Sewer Deposit: \$25-105.00
Where billing history is available, deposits may be determined by using 1/8 of the estimated annual billing to be determined by past history of the account, if the new business is similar in nature to the previous business.

- C. *Solid Waste Deposit (Flat Rate):* \$100.00

SECTION 6.
LARGE COMMERCIAL AND INDUSTRIAL SERVICE

Applicable to all commercial and industrial customers on the urban and rural systems who contract for over ~~300/1000~~ KW of demand where service is taken through one meter at one point of delivery.

- A. Electric Deposit: Determined by Contract
- B. Water/Sewer Deposit: Determined by Contract
- C. *Solid Waste Deposit:* Determined by Contract

SECTION 7.
EXEMPTIONS FROM DEPOSIT

The following customers shall be exempt from making a deposit:

- A. All local, state and federal governmental entities.

- B. Any customer who has established a *satisfactory credit* history with BTU during the immediately preceding two years for a new account of similar type and size. *Satisfactory credit* ~~Prompt payment history~~ is defined as:
- no more than two late penalties on the account within the last twelve-month period, ~~A penalty is defined as the difference between the net and gross amounts shown on the bill. In addition,~~
 - an account that *was not* is subject to disconnection for nonpayment *during the preceding two years, and,*
 - an account that ~~or~~ has not had a returned check *during the preceding two years. will be considered to have a penalty for each occurrence.*
- C. A residential customer who provides a letter of credit from their previous electric utility company. Letters of credit must meet the following:
1. Last date of service is within one year of date of application with BTU.
 2. Customer has had at least two (2) years of service.
 3. Account has no more than two (2) late payments in the last twelve months of service.
 4. Account has no returned checks or disconnects for nonpayment *in the last two years of service.*
- D. A residential customer (cosignee) who provides a signature of an existing prompt paying BTU customer (cosigner) upon a BTU cosigner form. The condition for acceptance of the cosigner is that he agrees to pay the delinquent account of the cosignee if, and in the event, the cosignee has defaulted in payment of utility services. A person may not cosign for more than one person served by BTU unless it is an immediate member of the family. In the event the person who cosigns terminates the use of BTU, then the cosignee shall immediately make the satisfactory deposit or his service shall be terminated.

SECTION 8.
TYPE OF UTILITY SECURITY DEPOSIT

The deposit shall be made in cash, check, credit card or by the pledge of a certificate of deposit or savings account in the form acceptable with BTU, or for amounts in excess of \$500.00, an approved surety bond with power of attorney.

SECTION 9.
REFUND OF DEPOSIT

- A. Residential customers shall be refunded their deposits if they meet all of the following:
1. Must have been a residential customer for the immediate two (2) preceding years.
 2. Must have no more than two (2) late penalties within the last twelve-month period.
 3. *Account has not been subject to* ~~No~~ disconnection of service for non-payment *in the last two years.*
 4. *No returned checks in the last two years.*
- B. Commercial customers shall be refunded their deposits if they meet all of the following:
1. Must have had this commercial account for the immediate three (3) preceding years.
 2. Must have no more than two (2) late penalties within the last twelve-month period.

3. *Account has not been subject to ~~No~~ disconnection of service for non-payment in the last two years.*
 4. *No returned checks in the last two years.*
- C. *In the event that a customer's deposit has been refunded or waived and that the customer fails to maintain a ~~prompt payment history~~ satisfactory credit as defined by Section 67, BTU at its option may require that a deposit be placed or reestablished on the account.*
- D. *Deposit refunds will be applied to the customer's account.*

SECTION 10.
DISCONTINUANCE OF SERVICE

- A. *Utility service may be disconnected with notice for the following reasons:*
1. *Failure to pay a bill or enter into a deferred payment agreement within twenty ~~twenty-nine~~ (29)(20) days from the due date and after proper notice has been given. *Disconnect notice shall be mailed to the customer at the current address BTU has on file nine (9) days before the date of disconnect.* Special programs or provisions may increase the number of days before disconnection.*
 2. *Failure to pay a delinquent account or failure to comply with the terms of a deferred payment agreement, or other BTU program.*
 3. *Violation of BTU's rules pertaining to the use of service in a manner which interfered with the service of others or the operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation.*
 4. *Failure to comply with deposit or guarantee arrangements.*
 5. *Remittance of payment in a form that the bank returns as uncashable or non-negotiable.*
- B. *Utility service may be disconnected without notice for tampering with BTU's meter or equipment or bypassing the same. ~~Termination notice shall be mailed to the customer at the current address BTU has on file~~*
- C. *Any disputes as to Electric billing errors may be heard, informally, by the BTU General Manager or his designee. To initiate an informal hearing, the customer must file a written request for a hearing with Manager of Customer Service within 5 days from the date of the disconnect notice. Disconnect notice shall be mailed to the customer at the current address BTU has on file a minimum of nine (9) days before the date of disconnection. ~~Prior to termination the customer shall have been provided notice and an opportunity to be heard as to any billing errors, except for tampering. If a hearing is requested, an informal hearing will be held first, between the customer requesting the hearing and the Division Manager of Utility Customer Services within three (3) days of request. If a mutually agreeable solution cannot be determined from this hearing, a formal hearing may be requested with the Municipal Court judge. Within 3 business days from receiving the written request, the BTU General Manager or his designee will hold an informal hearing and receive evidence from the customer related to the billing dispute. The BTU General Manager or his designee then has 24 hours to render their decision regarding the dispute. Requesting an informal hearing temporarily tolls the termination proceedings. If the customer fails to appear at the informal hearing, the dispute will be resolved in favor of the utility and termination proceedings will continue.~~*

- D. In the event utility services are disconnected for any of the reasons above, services shall not be reconnected until the customer has paid all required fees to BTU and the necessary deposit has been made. The deposit required shall be the standard amount as required by the deposit resolution plus fifty percent (50%) of that standard deposit for each disconnection. If no deposit was initially required, the customer must establish a deposit equal to approximately twice the average monthly billings based on the most current 12-month billing history. The total deposit requirement shall not be less than the standard deposit on the account nor shall it exceed twice the average monthly billings based on the most current 12-month billing history.
- E. In the event utility services are disconnected, required payments and fees are not paid and services remain terminated, collection procedures will begin. Every effort will be made to collect from customers owing BTU. In those instances when the account balance, after the deposit has been applied, is less than \$10.00, and BTU's attempt to collect any payment through the standard collection letters has failed, BTU will not continue to use resources and will forgive those debts.
- F. *Utility services will be automatically disconnected for prepay customers once the credit amount on their utility account is zero. Prepay customers receive multiple days of real-time notification(s) of their choosing warning them their utility account balance is approaching zero.*
- G. *Service shall be disconnected without notice where a condition exists that endangers life or property for as long as the condition exists.*

SECTION 11.
SERVICE FEES

A. Delayed Payment Fee-Penalty – Residential and Commercial Customers:

A delayed payment fee of five percent (5%) of the total net utility bill in addition to the delinquent amount will be required if payment of the utility bill is not received in the business office by the due date.

B. Check Read Fee:

If a customer requests a check read on his meter, an additional fee of \$15.00 per meter shall be charged to the customer unless the check read shows the meter is not working properly at the time the check read is made by BTU or unless determination is made that the original reading was erroneous.

C. Returned Check Fee:

A returned check fee of \$25.00 shall be charged in the event a check, draft or any other similar type instrument is given to BTU for payment of services and the same is returned by the bank as uncashable or non-negotiable. Services include, but are not limited to, utility payments and deposit payments.

D. Temporary *Electric* Service Connection Fee:

A connection fee of \$20.00 for each city meter and \$35.00 for each rural meter shall be charged for services that are temporary in nature. Temporary services are defined as a connection for two (2) weeks or less.

E. Service Fee for After Disconnect and Reconnect Date:

If payment of the utility bill and the delayed payment fee is not received in the business office prior to the disconnect date, and a service order is issued to disconnect services, a service fee in addition to the delayed payment fee and delinquent amount shall be required and the total amount of the service fee to be charged to the customer shall be determined by the following:

1. During ~~all normal business hours, 7:00 a.m.—6:00 p.m., Monday through Friday,~~ a service fee of \$20.00 ~~for inside the city limits and \$35.00 for outside city limits~~ will be charged.
~~Reconnecting services on Saturdays, Sundays, holidays or anytime after 6:00 p.m. on Monday through Friday, an additional service fee of \$15.00 will be added to the service fees listed in number 1 above. An after hours service fee of \$35.00 inside the city limits and \$50.00 outside the city limits will be charged.~~

- F. Tampering fee of \$100.00 shall be required if the customer has, on his own, restored *electric* service or caused it to be restored when not authorized in writing by BTU. Customers connecting or reconnecting services on their own, without written permission of BTU, are considered tampering and it is presumed that the customer restored services himself unlawfully. If a meter is tampered with, actual replacement or repair charges, all ~~electrical~~ consumption, plus the tampering fee will be charged to the customer.

G. Regular Connect After Hours Fee:

~~Customer requesting that services be connected on Saturdays, Sundays, holidays or anytime after 6:00 p.m. Monday through Friday, a connection fee of \$35.00 inside the city limits and \$50.00 outside the city limits will be charged.~~

H. Inadvertent Trip Fee:

During normal business hours, ~~7:00 a.m.—6:00 p.m.,~~ a service fee of \$20.00 in the City and \$35.00 in the rural area will be charged for customers requesting a change in service connect or disconnect dates after the service technician has made the trip, or a missed appointment for the installation of the Power Track system, or for other reasons an inadvertent service trip was made. After hours, a service fee of \$35.00 inside the city limits and \$50.00 outside the city limits will be charged.

SECTION 12.
REQUEST FOR ELECTRIC METER TEST

- A. A customer may request an electric meter test by notifying BTU in writing, via mail, fax, in person or email. By submitting a signed and dated request:

1. BTU will test the requested meter at no charge if the meter has not been tested within the last four years. If the meter has been tested within the last four (4) years, and the results are within the American National Standards Institute (ANSI), the customer shall pay for the actual cost of testing. Any charges will be added to the next electric bill. The customer agrees to abide by the results of the test regarding any billing correction.

Actual cost for testing an electric meter:

Non-demand meter

\$30.00

Demand meter

\$60.00

- B. The customer may request notice of when testing will be done so he/she may be present.
- C. If the tested meter registers less electricity than the ANSI accuracy standard, the meter will be recalibrated and the customer's current electric bill increased by the amount of meter error indicated by the test.
- D. If the tested meter registers more electricity than the ANSI accuracy standard, the meter will be recalibrated and the customer's electric bill decreased by the amount of meter.

~~Error indicated by the test for the previous six (6) months billing, or to the time when the error apparently began, whichever is less.~~

- E. If the tested electric meter does not test within ANSI accuracy standards, and cannot be recalibrated, the meter will be replaced by an accurately calibrated meter.

SECTION 13.
ELECTRIC BILLING ADJUSTMENTS

If an account is adjusted for over billing, the account will be recalculated and rebilled for a period of up to two years. If the account has been underbilled, the account will be recalculated and rebilled for a period of up to six months.

SECTION 14.
SAVINGS PROVISION

That the Code of the City of Bryan, Texas, as amended, shall remain in full force and effect.

SECTION 15.
SEVERABILITY

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

SECTION 16.
OPEN MEETINGS COMPLIANCE

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

SECTION 17.
EFFECTIVE DATE

This ordinance shall go into effect immediately after its second and final reading.

PRESENTED AND GIVEN first reading the _____ day of _____, 2012 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, passed and approved on the _____ day of _____, 2012 by a vote of _____ yeses and _____ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney