

**CITY OF BRAHAM
ORDINANCE NO. 265**

**AN ORDINANCE REGARDING THE MUNICIPAL WATER AND SEWER SERVICES,
AND PRESCRIBING GENERALLY THE FOLLOWING:**

1. Ordaining rules and regulations regarding connection to the municipal water and/or sewer system, and the application and prescribed fees for the installation of service;
2. Ordaining rules and regulations regarding water meter maintenance;
3. Ordaining rules and regulations pertaining to rates, accounting, billing, and collecting of water/sewer charges, meters, and rates;
4. Ordaining rules and regulations for the administration of the municipal water and sewer systems, and prescribing penalties for the violation thereof.
5. Ordinance #138 and Ordinance #139, and their amendments, remain in effect, and take precedence in the event of any conflict.

THE CITY COUNCIL OF THE CITY OF BRAHAM ORDAINS:

SECTION I.

Use of Public Sewer and Water Systems Required.

Per the Minnesota State Plumbing Code 4715.0310, and as amended:

If a public sewer is accessible in a street or alley to a building or premises and the connection is feasible, liquid wastes from any plumbing system in that building must be discharged into the public sewer unless otherwise prohibited by this code or local ordinance.

If a public water supply system is accessible, the water distribution system must be connected to it. A water well taken out of service because a person is connecting to a public water supply must either be maintained for a use such as irrigation, or sealed and abandoned in accordance with the Minnesota Water Well Construction Code. (MN Rules, Chapter 4725, and as amended.) Private water wells existing at the time of this ordinance adoption will be allowed for continued potable water use under the following criteria:

- (a) As long as the private well is functioning properly. No improvements may be made to the well or well equipment.
- (b) Until the property sells. The seller must notify the purchaser of the hook-up requirements in the City ordinance.
- (c) Individual wells shall be sampled and tested every 3 years for coliform bacteria and nitrate by qualified laboratories. Tests for other contaminants listed in the National Drinking Water Primary Regulations may be required by the City, if deemed necessary. The levels of coliform bacteria, nitrate and other contaminants as required by the City shall not exceed the Maximum Contaminant Levels (MCL) of the National Primary Drinking Water Regulations. If the individual well exceeds any of the MCL, the property shall immediately connect to the municipal water system. All testing shall be at the expense of the well owner, and it shall be the responsibility of the well owner to forward annual sample and test results to the City by June 1 of the testing year. Private well owners who fail to submit the required testing results to the City will be required to hook up to City water within 90 days.

If either a public sewer or water supply system or both are not available, an individual water supply or sewage disposal system, or both, conforming to the published standards of the administrative authority must be provided.

The City cannot prohibit private irrigation wells, but does not assume any responsibility or liability for them. Use of an irrigation well for potable water is strictly prohibited.

Every building must have its own independent connection with a public or private sewer, except that a group of buildings may be connected to one or more manholes which are constructed on the premises, and connected to a public or private sewer. These manholes must conform to the standards set by the local sewer authority. The City assumes no responsibility for problems resulting from pre-existing shared sewers.

Application for Service.

Subdivision 1. Procedure. Application for a water and/or sewer service installation and service shall be made to the City Clerk on forms prescribed by the City Clerk and furnished by the City. By his/her signature, the applicant shall agree to conform to this Ordinance and to the rules and regulations that may be established by the City as conditions for the used of water and/or sewer service.

Subdivision 2. Fees. Application for a service installation shall be made by the owner of the property to be served or by his/her agent. The applicant shall at the time of making application pay to the City the amount of the fees required by the installation of the service connection as provided for in City Ordinance. All accounts shall be carried in the name of the owner who personally, or by his/her agent, shall apply for such service.

SECTION II.

Meters.

Subdivision 1. Standards and Requirements. All water sold shall be measured by meters, with the exception of pool fills and occasional hydrant water sold to contractors. Every customer shall provide a suitable place where a meter can be installed, and the municipality or a person licensed and bonded with the State or the City to make water and sewer connections, shall make the installation. Any service requiring a meter pipe over one inch (1") in diameter shall furnish their own water meter. The meter supplied is to be of a quality approved by the Braham Water and Sewer Department. For purposes of inspecting, repairing or replacing meters, duly authorized employees of the Water Department of this City shall have authority legally to enter upon any premises at a reasonable hour. If a property owner refuses to give consent to enter private property to inspect, repair or replace a meter, the City may pursue an administrative search warrant, or disconnect service following notice and/or hearing as defined in Section V, Subd. 5.

Meters shall not be provided until application of service is made with the City Clerk's Office.

The City will not turn on the water for new construction until the main meter is installed and functioning, and the curb stop is level with final grade.

Subdivision 2. When the City replaces a primary meter, it shall be at the expense of the City, unless damage to the meter was caused by the occupant of the premises, in which case the

occupant/owner of the premises shall be responsible for all costs. When the City replaces a primary meter, it will be the responsibility of the City to ensure there are no leaks caused from the replacement of a meter at the time of installation.

Subdivision 3. When a property owner requests a change in a primary meter that is working properly, the property owner will be responsible for the costs of replacing the meter. Any meter valve not obtained from the City must be pre-approved by the City water department.

Subdivision 4. To avoid a sewer charge on water used for irrigation purposes from April 15 through October 14 of each year, the irrigation water must be metered with a 2nd meter. This includes outside sprinkler systems. The 2nd meter must be installed *after* the main meter, as a deduct meter, and can either be hard-plumbed on the inside of the property or a portable meter on the outside of the property. 2nd meters shall be purchased and owned by the owner. The City assumes no responsibility for lost, stolen or damaged meters.

Subdivision 5. Portable meters, and sewer adjustments on portable meters, shall be available each year from April 15 through October 14. The property owner shall pay all costs associated with the portable meter. The property owners must sign up and pre-pay for a portable meter, allowing time for the City to order the meter. Any payment arrangements shall be determined by council.

Meter Charges.

Subdivision 1. Meter Charges. The meter charge on primary meters shall be set by City Ordinance.

SECTION III.

Rates.

Subdivision 1. Comprehensive Rates. The City reserves the right to make any such further rules and regulations and to change the rates from time to time as may be necessary for the preservation, protection and proper operation of the water and sewer system. Water and sewer rates, debt retirement and administrative fees shall be set by City Ordinance.

Charges for Water and/or Sewer Consumed:

- A. Where only water service is connected, the water usage will be metered but only the cost of the water service will be billed. The minimum billing will be set by City Council resolution.
- B. Where only sewer service is connected, the water usage shall be still be required to be metered to measure sewer usage for billing purposes.

Outside City Limits Rates.

Properties outside the Braham city limits that request to hook up to the City's water and/or sewer services, where available, will be required to annex into the City in order to get the City services. The City shall allow connection upon payment of the Water Access Charge (WAC) and Sewer Access Charge (SAC), which shall be forfeited to the City if connection is not made within a year from the application date. There shall be an additional charge of fifty percent (50%) of the rates to all pre-existing users outside of the Braham city limits.

Garbage Disposal.

All commercial users of garbage disposal must procure a special permit from the City Council. The rate to be charged for such permit and the rate to be charged for such commercial garbage disposal use shall be established by the City Council.

Hydrant Rentals.

Hydrant rentals shall be set by City Council resolution.

SECTION IV.

Charges for Service Connections.

Subdivision 1. Permit and Fee. No connection shall be made to the City water or sanitary sewer system without a permit received from the City Clerk. The fee for such permit shall be set by City Council resolution. These fees shall be in addition to any fees required under Subdivisions 2, 3, and 4, and as amended.

Subdivision 2. Connection Fees. When a connection requires installation of a service line from the main to the property, the applicant for a permit shall pay to the City an amount not less than the cost of making the necessary connection, taps, and installation of lines and appurtenances to provide service to the property and the necessary street repairs.

Subdivision 3. Certification. No permit shall be issued to connect with any water or sanitary sewer main unless the applicant certifies to the truth of one of the following, or payment required under Subdivision 4 is made:

1. The lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been or will be commenced in due course; or
2. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or
3. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the City.

Subdivision 4. Additional Connection Fee. If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the City Council. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage.

Subdivision 5. Term of Application.

Applications for Water Access and Sewer Access are good for a period of one year from the application date, with no extensions. The Water Access Charge (WAC) and the Sewer Access Charge (SAC) are forfeited to the City if connection is not made within a year from the application date.

Notice and Hearing.

Subdivision 1. Notice and Hearing. Before the City Council makes a final determination of the additional connection fee under Subdivision 4, it shall submit a written notice to the applicant stating the amount of the proposed connection fee and the basis of its calculation. The notice shall also state that the applicant may, within 10 days of receipt of the notice, demand a hearing on the matter. If the applicant requests a hearing within that time, a hearing shall be held on the matter by the City Council at least one week after the date on which the request is made.

If as a result of the hearing, the City Council finds that the proposed connection fee complies with the requirements of Subdivision 4, it shall so determine. If it determines that the proposed fee is in excess of the amount that would have been assessed had the property been assessed for the main or is in excess of the increase in market value attributable to construction of the main, it shall make a determination of the proper amount of the fee within the limits specified in Subdivision 4.

No connection shall be made without payment of the connection fee determined after the hearing or determined after the expiration of then (10) days from receipt of the notice when there has been no request within that time for a hearing.

SECTION V.

Accounting, Billing and Collecting.

Subdivision 1. Accounts in Name of Owner. All accounts shall be carried in the name of the owner who personally, or by his/her authorized agent, shall apply for such service. The charge for application shall be \$25.00. The owner shall be liable for water and sewer service supplied to his/her property, whether he/she is occupying the property or not, and any charges unpaid shall be a lien upon the property.

Subdivision 2. Bills for Service. Water and sewer service charges shall be billed together. Bills shall be mailed to the customers monthly and shall specify the water consumed and the sewer and water charges in accordance with the rates set out by City Ordinance.

Subdivision 3. Delinquent Accounts. Water/Sewer bills will be sent out on the 1st of the month, or as close to the 1st as possible, and due on the 14th of the month. Any unpaid balance will be considered delinquent 30 days after the billing date. The City shall endeavor to collect delinquent accounts promptly. All delinquent accounts shall be assessed a late penalty of ten dollars (\$10.00) or ten percent (10%) of the amount due, whichever is greater, and in addition, the cost of service of the notice of delinquency in Subdivision 5.

In any case, where satisfactory arrangements for payment have not been made, the City may, after the procedural requirements of Subdivision 5 have been complied with, discontinue service to the delinquent customer by shutting off the water at the stop box and/or removal of the water meter. When water service to any premises has been disconnected, service shall not be restored except upon the payment of the total amount due to the City, including the current bill and a service fee of \$55.00 for reconnection during City working hours, and \$150.00 for reconnection after hours. Reconnections will not be made after 9 p.m. or on Holidays.

Where satisfactory arrangements have not been made, delinquent accounts as of September 15 of each year shall be certified to the tax roll. Assessment Rolls shall be prepared by the City Clerk's office annually and be delivered to the Council for adoption on or before the November regular meeting of each year for certification to the County Auditor for collection along with the taxes. The City Clerk may submit for Council approval assessment rolls for properties with delinquent accounts in addition to the annual schedule specified above. Such action is optional and in addition to taking other action to collect delinquent accounts.

Subdivision 4. Procedure for Shutoff of Service. Water shall not be shut off under Subdivisions 3 or 4, or for violation of rules and regulations affecting utility service until notice and an opportunity for a hearing have first been given the occupant if the premises involved. Disconnect Notices for delinquent accounts shall be sent out by **first class mail** 35 days from the billing date, giving 10 days from the **mailing date** to pay or make satisfactory arrangements for payment. Within the 10 days, the City will attach a red shut off tag to the front door of the property, giving second notice before the shut off date. If no payment or satisfactory arrangements are made before the shut off date, the water service will be shut off without further notice.

Shutoff of services for violation of Section II, Subd. 1 shall be sent by **first class mail**, and shall state that if compliance is not met within five (5) days from the **mailing date** (excluding Sundays), the water supply to the premises will be shut off. Within those 5 days, the City will attach a red shut off tag to the front door of the property giving second notice before the shut off date. If compliance still is not met before the shut off date, the water service will be shut off without further notice until such time as compliance is met.

The notice for shutoffs for delinquent accounts or non-compliance shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the supply will not be cut off until after the hearing is held.

If the customer requests a hearing before the date specified, a hearing shall be held on the matter by the City Council at least one (1) week after the date on which the request is made. If as a result of the hearing, the City Council finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with the Ordinance, the City may shut off the supply.

Minnesota Cold Weather Rule. The City will not disconnect water service to a residential unit during cold weather months (Oct. 15 through April 15), if that shut-off would in any way affect the primary heat source of the unit. The Cold Weather Rule only applies for a customer, whose account is current for the billing period immediately prior to Oct. 15, or who, at any time, enters into a payment schedule that considers the financial resources of the household and is reasonably current with payments under the schedule.

Subdivision 5. Bankruptcies. The City may not shut off or certify the outstanding water/sewer amount to the tax roll when a property owner with delinquent bills files a bankruptcy petition under either Chapter 11 or Chapter 13. The petition for bankruptcy invokes an “automatic stay” that is applicable to utilities and prevents any act to collect, assess or recover a claim against the debtor that arose before the commencement of the bankruptcy case. However, the City may disconnect water service if neither the trustee nor the debtor, within 20 days after the date of the order of relief in a bankruptcy case, furnish adequate assurance of future water/sewer payments after such date, in the form of a deposit in the amount of two of the customer’s average water/sewer bills.

SECTION VI.

Subdivision 1. Responsibility for Repairs and Maintenance.

The cost of all repairs, replacements, and maintenance of any plumbing from the building water service (not including the meter and meter valves) up to the curb stop (not including the curb stop), and from the building sewer up to the City’s main sewer line (including the connection to the main sewer line), including thawing frozen pipes, shall be borne entirely by the owner of the premises affected. If such repair or replacement work is performed by the City, the cost of time and materials shall be assessed against the owner of the affected premises as allowed by law. The City will not be responsible or held liable for any damages as a result of backup of sewer or water main breaks which may be suffered by property which is vacant and/or unoccupied where the damage is caused or increased by being vacant and/or unoccupied.

Costs of repair and replacement of meters sized 1” and smaller, meter valves, and curb stops are the responsibility of the City, unless damaged by the occupant of the premises, in which case the occupant/owner shall be responsible for all costs. Where the City repairs or replaces a curb stop, and the curb stop is located in a driveway, the City will only be responsible for patching the area

that was excavated for the repair/replacement of the curb stop. The property owner is responsible for all costs associated with meters over 1” in size.

Subdivision 2. Notification to City of Any Sewer Line Cleaning, Maintenance, or Repairs of Private Lines Connected to the City’s Sewer System.

1. All residents with sewer lines connected to the City sewer service, and all contractors and/or subcontractors who shall do work on private sewer lines connected to the City sewer service, shall give notice to the City of Braham of any sewer line cleaning, maintenance, or repair of such private sewer lines. Notification will prepare the City for any potential back-up problems which may result from the private sewer line work.

2. Any person who fails to give notice to the City of Braham of any cleaning, maintenance, or repair of private sewer lines, in violation of Section 1 above, shall be responsible for paying any and all costs incurred by the City of Braham for the clean-up of any back-ups or other problems that results from the private sewer line work.

Subdivision 3. Sanitary Sewer Backup Policy.

The City of Braham’s policy for any sanitary sewer backup *caused by the City’s main sanitary sewer line being plugged* is as follows:

- (a) It will be the responsibility of the homeowner to contact a company for cleanup of sewage backup.
- (b) The City will turn the claim into the City’s insurance (whether the City qualifies for the “No Fault “ coverage or not)
- (c) The City will pay up to \$500 of the homeowner’s deductible amount.
- (d) For those without sewer backup coverage on their insurance, the City will pay up to \$500 of their *documented* costs for cleanup/damage.

SECTION VII.

General.

- 1. No person shall, without authority, use or interfere with fire or street-sprinkling hydrants.
- 2. The City Council may permit water to be used temporarily from any fire hydrant by attaching a reducer to one of the hydrant openings and controlling the supply by means of a small valve.
- 3. The use of water for lawn sprinkling may be subject to the condition that the City Council may, at any time, when in its opinion, the conditions of the public water demand it, limit the time of sprinkling or entirely forbid such use.

4. The City reserves the right at any time to shut off the water for the purpose of extending, replacing, repairing, or cleaning mains and appurtenances, and the City shall not be held liable for any damages arising therefrom. No claim shall be made against the City by reason of the breaking of any service pipe or connection.

Protection of Public and City.

Subdivision 1. Permit and Bond. A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, and/or between the building water service pipes and a water main or stub shall be issued only upon application by the contractor licensed by the City who has furnished a bond and proof of liability and workman's compensation insurance to the City Clerk. The bond shall be in the total amount of \$5,000, conditioned so as to secure compliance by the principal with the provisions of this Ordinance, and to further secure performance by him/her of all work undertaken within the City. Persons licensed and bonded with the State as authorized to perform this work are exempt from City licensing. Adequate proof of meeting state requirements and application for a City permit which provides for the City inspection of the water and sewer connections are required. Due to legislative changes requiring cities to locate water and sewer lines within the public right-of-way, all contractors are required to run tracing wires with the installation of water and/or sewer lines within the public right-of-way.

SECTION VIII.

Penalties.

Subdivision 1. Any person who shall willfully and without authority from the City injure or remove any property under the control of said City or interfere in any way with the operation, construction, or repairing of the water or sewer works, or who shall operate any valve or hydrant or who shall unlawfully enter any building of said water or sewer works, shall, upon conviction, be punished by imprisonment for a term not to exceed one (1) year, or shall be fined not exceeding \$1,000.

Subdivision 2. Any person who shall without authority from the City, lay any main or service or take water from the City supply, or, who being authorized by the City to take water from any main or service pipe upon any specified premises or otherwise for any specified purpose, shall, without authority, use such water for any reason other than such specified purpose, shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$700.00 or by imprisonment for a term of not more than ninety (90) days.

Subdivision 3. Any person who shall maliciously or willfully divert the water or who shall corrupt or render the same impure shall be guilty of a misdemeanor and shall, upon conviction, be imprisoned for a period not exceeding ninety (90) days or shall be fined up to \$700.00, or both.

Subdivision 4. If any person, through unlawful manipulation or tampering with the water or sewer system, shall destroy or injure any property, public or private, the damages so caused shall be recovered in a civil action brought by the City, including the cost of suit.

Subdivision 5. Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to punishment up to a fine of \$1,000 or imprisonment in jail for a period of 90 days, or both, plus the costs of prosecution.

If a person tampers with a meter or engages in unauthorized use of the service, the City may bring a civil action against the person and seek to recover double the cost of the service, plus the costs involved in the civil action, per MN Statute 325E.026, Subd. 2, and as amended.

SECTION IX.

The following ordinances and parts of ordinances are hereby repealed:

Ord. #40	Governing the Operation of Braham Water Works System	Dated 5/15/37
Ord. #46	Regulating Sewer and Street Excavations	Dated 11/12/40
Ord. #50	Requiring Installation of Toilet & Connecting to W/S	Dated 7/18/49
Ord. #58	Re: W/S Rates	Dated 1/22/59
Ord. #59	Amending Ord. #46, Sec. 4 & 7	Dated 3/9/59
Ord. #62	Amending Ord. #40, Sec. E, #54 & #58	Dated 10/4/63
Ord. #63	Amending Ord. #46, Sec. 17 & 59, Sec. 2	Dated 12/26/63
Ord.#101	Admin. of Municipal Water System	Dated 5/3/82
Ord.#112	Amending Ord. #101, Sec. 8	Dated 6/2/86
Ord.#130	Amending Ord. #101	Dated 10/10/90
Ord.#133	Amending Ord. #101	Dated 4/10/91
Ord.#141	Amending Ord. #130 Re: Water Meter Maint.	Dated 11/2/92
Ord.#143	Combining #101,130,141,Res.91-7	Dated 5/3/93
Ord.#148	Amending Ord. #143 Re: W/S Rates	Dated 12/30/93
Ord.#149	Amending Ord. #139, Sec. 32 Re: Equivalent Connects	Dated 1/5/94
Ord.#155	W/S Ordinance	Dated 12/2/96
Ord. #190	Requiring Notification to City of Sewer Repairs...	Dated 11/2/98
Ord. #198	W/S Ordinance	Dated 12/6/99
Ord. #210	W/S Ordinance	Dated 1/3/2002
Ord. #212	Amending Ord. #210	Dated 3/4/2002
Ord. #223	Amending Ord. #210	Dated 7/8/2003
Ord. #231	Amending Ord. #210	Dated 7/6/2004
Ord. #236	Amending Ord. #210	Dated 3/1/2005
Ord. #239	Amending Ord. #236	Dated 6/7/2005
Ord. #242	Adopting a Sanitary Sewer Backup Policy	Dated 7/5/2005
Ord. #243	Amending Ord. #210	Dated 2/7/2006
Ord. #249	Amending Ord. #210	Dated 10/3/2006
Ord. #250	W/S Ordinance	Dated 3/6/2007
Ord. #255	W/S Ordinance	Dated 12/4/2007

This ordinance shall take effect, and be in full force from and after the date of its publication.

Adopted by the Braham City Council this 4th day of May, 2010.

Ken Ceaglske, Mayor

Attest: Sally A. Hoy, City Administrator