

ORDINANCE NO. 2024- 11

AN ORDINANCE AMENDING THE VINELAND CITY CODE TO ESTABLISH IN THE DEPARTMENT OF ADMINISTRATION A BROADBAND UTILITY SERVICE CHAPTER 5 - UTILITIES, ARTICLE 17 - VINELAND BROADBAND UTILITY.

The City Council of the City of Vineland, New Jersey, does ordain as follows:

SECTION 1: Chapter 5 of the Vineland City Code is amended to establish within the Department of Administration a new division entitled “Division of Broadband Utility”, in Section 5-17, which shall read as follows:

§5-17 Division of Broadband Utility

A. Findings. The City finds that:

1. Access to reliable broadband internet is crucial for economic growth, education, healthcare, access to information and resources, and overall community development.
2. The existing telecommunication infrastructure within the City is insufficient to meet the needs of residents, businesses, and community organizations.
3. The creation of a Division of Broadband Utility by the City is determined to be an effective and sustainable solution to meet the needs of the City for affordable, high-speed broadband service.
4. The provision of broadband service by the City will benefit City residents and businesses by offering an alternative to existing commercial providers of broadband internet services, thereby increasing access and furthering competition in the pricing for such services.

B. Establishment of Division of Broadband Utility. The Division of Broadband Utility shall be, and is, established within the Department of Administration.

C. Purpose of Division of Broadband Utility. The purpose of this ordinance is to create a fiber-optic broadband utility for the City to own and operate in order to provide reliable, affordable, and accessible high-speed internet access to all residents, businesses, and institutions within the City. Through its provision of broadband services, the City aims to enhance economic development opportunities, support existing businesses, attract new businesses, improve educational resources, and enhance the overall quality of life for its residents.

D. Duties and Obligations of the Vineland Broadband Utility. The Vineland Broadband Utility shall be responsible to investigate and plan, and upon authorization by City Council, to acquire, construct, extend, improve, maintain, operate, lease, dispose of, regulate, and manage a municipal broadband system to provide, among other things, broadband, data, Internet, video, and information services within the City of Vineland.

E. Management and Operation. The Division of Broadband Utility shall be under the general supervision of the Business Administrator and under the direct supervision of the Director of Information Systems. The Director of Information Systems shall:

1. Direct the operations of the Division of Broadband Utility, including the activities of the staff, and coordinate the work of all activities within the Utility.
2. Report to the Business Administrator, in such form as shall be prescribed by the Business Administrator on the operations of the Utility and make such other

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reports as may be requested by the Business Administrator, Mayor and City Council.

3. Assist in executing plans for the effective utilization of available funds, personnel, equipment, materials and supplies.
  4. Organize and develop suitable work programs for the varied functions of the Division of Broadband Utility.
  5. Give suitable assignments and instructions to individuals and groups and supervise their work.
  6. Make investigations of complaints and take proper action to see that service interruptions or other problems with operations are addressed with a minimum of delay.
  7. Inspect work in progress, or completed assignments to ensure that proper procedures are followed.
  8. Keep all records and files pertaining to the Division of Broadband Utility as are required by law and necessary for the proper function of the Division.
  9. Prepare and obtain approval and implement a capital improvement program for the Division of Broadband Utility in coordination with the Chief Financial Officer, the Business Administrator, the Utility Director and such other department heads as may be needed to ensure that equipment is maintained and upgraded so that the services provided by the Division of Broadband Utility operate efficiently and effectively, with minimal service interruptions.
  10. Prepare and assist in the preparation of loan and grant applications to State and Federal Government agencies for broadband projects and inform the Business Administrator, Mayor and City Council of all available financial aid opportunities.
  11. Work in conjunction with the Chief Financial Officer on all financial and budgetary matters of the Broadband Utility.
  12. Approve or disapprove payrolls, bills and claims chargeable to the Division of Broadband Utility.
  13. Periodically review and recommend rates to the Director, Mayor and City Council in order to maintain fiscal integrity and self-liquidating status of the Division of Broadband Utility.
  14. Provide for the care, storage, use and maintenance of motor vehicles and motorized equipment owned by the City of Vineland in the custody of the Division of Broadband Utility and provide for the care, storage, use and maintenance of all equipment and land owned by the City of Vineland and in the custody of the Division of Broadband Utility.
- F. Costs of Implementation of Broadband Utility. The City will seek, and is authorized to accept, grants for the purpose of paying part or all of the cost of design, development, acquisition, construction, activation, marketing, and equipping of the broadband system and any additions, betterments, extensions, and improvements thereto, from any authorized department or agency of the State of New Jersey, or from the Federal government or any Federal or public agency or department of the United States, or any private agency, corporation, or individual.
- G. Vineland Broadband Utility Fund. The Broadband Utility shall fund and be funded from revenues derived from the collection of broadband related fees, charges, subscriptions, lease payments and rentals. All fees collected and any other revenues appropriated to or

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attributable to the operation of the Vineland Broadband Utility shall be maintained in a segregated Vineland Broadband Utility Fund. Any revenues in excess of expenditures from utility operations in a given year shall be maintained in the Utility Fund and shall be used in future years exclusively for purposes consistent with this Chapter 5.

- H. Facilities. The City, acting through the Vineland Broadband Utility, may acquire, construct, lease, own, operate, maintain, expand and finance such equipment and facilities as are deemed proper and reasonably necessary for a fiber-optic broadband system.
- I. Construction of Broadband System. The City may utilize employees of the Vineland Electric Utility to install the infrastructure necessary to operate the broadband system. Alternatively, the City shall be permitted to seek proposals from other sources as permitted under the Local Public Contracts Law for the construction of the infrastructure necessary to operate the system, but the completed system shall be maintained and operated by employees of the City.
- J. Right of Access; Right to Place Instruments. The Broadband Utility shall have the right of access to the customer's premises at all times for the purpose of installing necessary materials and equipment such as required wiring to provide service to a Customer and to remove the materials and equipment if service is terminated or suspended.
- K. Budget. The Director of Information Systems, in consultation with the City's Chief Financial Officer, shall prepare an annual budget for the Vineland Broadband Utility, which shall include all operation, maintenance and capital costs, debt service and other costs related to the operation of the Utility. The budget shall be subject to approval by City Council.
- L. Costs of Development of Broadband Utility. City Council shall establish such rates and charges as are necessary to finance the acquisition of any necessary property or easements and the planning, design, construction, maintenance and operation of the Vineland Broadband Utility.
- M. Rates; Terms and Conditions. City Council shall establish the rates and the terms and conditions, for all residents, businesses, and community organizations that desire to acquire broadband service from the City's Division of Broadband Utility, with rates established so that the Broadband Utility becomes and remains a self-liquidating utility. Rates may vary depending on the speed of the service provided, any equipment rented by a customer from the City, and any additional services provided by the Broadband Utility to the customer.
- N. Billing; Payment.
  - 1. Bills will be rendered by the Broadband Utility monthly, in accordance with the rate applicable to the customer's service. The word "month" as used herein and in the rate schedules is hereby defined to be the elapsed time between two successive billing cycles approximately 30 days apart. Payment will be due within twenty (20) days after the date of each bill.
  - 2. The final date for payment of the amount shown on each bill will not fall on a Sunday or a holiday. A delayed-payment charge, as specified in the rate schedule on which the bills are rendered, will be added to bills not paid within the time specified for payment of the amount due. The Broadband Utility may waive this additional charge on a bill, provided that the customer's previous accounts are paid in full and not more than one other such waiver has been made on the bills in the preceding 11 months. The gross rate, which is the customer's standard rate plus the additional delayed-payment charge, will apply on bills when, at the time of payment, the account is in arrears for previous billings.
  - 3. Senior citizens.

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- a) The delayed-payment charge shall be waived for senior citizens 65 years of age or older, provided that a written application is made and service is in the applicant's name. Proof of age must be presented at time of application.
  - b) If all conditions in Subsection O(3)(a) are met, the senior citizen customers as defined above shall receive net billing only. This waiver of the delayed-payment charge shall apply only to the residential rate only.
4. Disabled American veterans.
- a) The delayed-payment charge shall be waived for disabled American veterans, provided that a written application is made and service is in the applicant's name. Proof of disabled American veteran status must be presented at time of application. For purposes of this section, a "disabled American veteran" is any veteran who has been or shall be declared by the United States Veterans' Administration, or its successor, to have a service-connected disability.
  - b) If all conditions in Subsection O(4)(a) are met, the disabled American veteran customers, as defined above, shall receive net billing only. This waiver of the delayed-payment charge shall apply to the residential rate only.
5. Permanently and totally disabled persons.
- a) The delayed-payment charge shall be waived to permanently and totally disabled persons, provided that a written application is made and service is in the applicant's name. Proof of permanent and total disability status must be presented at time of application. For purposes of this section, a "permanently and totally disabled person" is any person who has been or shall be declared by the United States Social Security Administration, or its successor, to be permanently and totally disabled.
  - b) If all conditions of Subsection O(5)(a) are met, the permanently and totally disabled customers defined above shall receive net billing only. This waiver of delayed-payment charges shall apply to the residential rate only.
6. A charge as provided in Chapter 280, Checks, Returned, will be made when a customer's check is returned by the customer's bank as uncollectible.

O. Refund of overpayments.

- 1. The Broadband Utility shall establish a procedure for refund of overpayments to customers within the current fiscal period, said procedure to be an addition to this article.
- 2. The Broadband Utility shall apply a credit balance to active accounts where an overpayment does exist.
- 3. The Broadband Utility shall issue refund checks to customers addressed to the last known address of record where said refund exceeds \$5 and there is no active Broadband Utility account against which to charge said credit.
- 4. The Broadband Utility shall establish a policy of canceling the overpaid balance of customer accounts less than or equal to \$5 where there is a remaining credit balance, which balance has accrued on the records for a period in excess of one year, and no valid address of record is available for refunding said balance of overpaid account funds.
- 5. The Director of Information Systems shall be the municipal official with authority to approve said cancellation of customer accounts with \$5 or less remaining therein pursuant to Subsection P(4), above.

P. Termination or Suspension of Service. The City may terminate or suspend the service of any customer:

1. That fails to pay for broadband service within twenty (20) days of the due date for the payment.
2. Uses the broadband service for any illegal purpose.
3. That uses the broadband service in violation of any Federal or State regulations.

Prior to terminating or suspending service, the City shall provide the customer with ten (10) days written notice of intent to terminate or suspend service and the reason for the termination or suspension of service. The customer shall have ten (10) calendar days to notify the City if the customer challenges the basis for the termination or suspension. A customer whose service has been terminated or suspended may reestablish service by addressing the basis for the termination or suspension and paying a reconnection fee in the amount of \$15.00.

Q. Rules and Regulations. The Director of Information Systems may adopt rules and regulations, consistent with the provisions of this Chapter, to implement the provisions of this chapter.

SECTION 2: All ordinances and parts of ordinance in conflict herewith are hereby repealed or deemed amended in order to be consistent with the provisions of this Ordinance.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed first reading:

Passed final reading:

\_\_\_\_\_  
President of Council

Approved by the Mayor:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk