

**BROWN COUNTY WATER UTILITY, INC.  
BY-LAWS**

**ARTICLE I**

**GENERAL**

Section 1. NAME. The name of this corporation shall be Brown County Water Utility, Inc.

Section 2. LOCATION. The office of this corporation shall be in Jackson Township, Brown County, State of Indiana.

Section 3. SEAL. This corporation shall possess a seal. The secretary shall have custody of the seal and shall cause it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. The seal shall have inscribed the name of the corporation, the year of its organization and the words, "Non-Stock Company, Brown County Water Utility, Inc.

**ARTICLE II**

**MEMBERSHIP**

Section 1. (Amended 4-18-11) Any occupant or person, including any body political and/or corporate, holding property having need of and reasonable accessibility to the services operated by the corporation, may be a member of this corporation by obtaining a membership certificate from the corporation. Persons who receive the approval of the Board of Directors may be admitted to membership upon subscribing for a membership certificate and by signing such agreements for the purchase of services as may be provided and required by the corporation, provided that no person otherwise eligible shall be permitted to subscribe for or require a membership of the corporation if the capacity of the corporation's system is exhausted by the needs of its existing members. A non-refundable fee of One-Hundred (\$100.00) dollars shall be paid per membership upon application for membership in this corporation.

Section 2. A member ceases to be eligible to hold membership as provided in Section 1 in case of death, or willfully fails to comply with these By Laws and other requirements, or willfully obstructs the purposes and proper activities of the corporation. The Board of Directors may elect to purchase his membership certificate and terminate his membership upon tender to him or his heirs or legal representative the fair book value of his membership certificate as determined by the Board of Directors, together with any dividends due and unpaid less any indebtedness then due from him to the corporation. Any member whose membership is so terminated for cause other than that of ceasing to be eligible may appeal from the action of the Board of Directors to a vote of the members at the next regular meeting of the members or special meeting of the members called for such purpose.

Section 3. The capital of this corporation shall be represented by membership certificates.

Section 4. The membership certificates shall be issued to each holder of fully paid membership and shall be numbered consecutively, in accordance with the order of issue. No number may be issued more than once. Each membership certificate shall bear on its face the following statements.

- a. This membership certificate, No.\_\_\_\_, is used and accepted in accordance with and subject to the conditions and restrictions stipulated in the articles of incorporation and By Laws and amendments to the same of the Brown County Water Utility. Inc.
- b. Transfers of membership certificates shall be made only upon the books of the corporation, only to persons eligible to become members only with approval of the Board of Directors and only when the member transferring is free from indebtedness to the corporation.
- c. (Amended 4-18-11) No member shall be entitled to more than one vote at meeting of the members or to hold more than one of the membership certificates of the corporation. Every member upon becoming a member of this corporation agrees to sign such agreements for the purchase of services as may from time to time be provided and required by the corporation and agrees in case he desire to dispose of his membership certificate to offer the same to the corporation as a donation to the corporation and that he will make no offer of assignment of sale elsewhere of the same.

Section 5. All transfers of membership certificates shall be made upon the books of the corporation upon surrender of the certificates covering the same by the holders thereof or by their legal representatives but only with the approval of the Board of Directors and only to persons eligible to become members and only when the transferring member is free from indebtedness to the corporation.

Section 6. Each member agrees to sign such user's agreements as the corporation shall from time to time provide and require.

### **ARTICLE III**

#### **MEETINGS OF MEMBERS**

Section 1. (amended 9-17-13) The annual meeting of the members shall be held within the service area of Brown County Water Utility, Inc., County of Brown, State of Indiana, at 7:00 o'clock P.M., on the third (3<sup>rd</sup>) Monday of April of each year pursuant to written notice thereof as required By Law. The Board will provide notice of the meeting place and time at the time it provides notice to the public.

Section 2. Special meeting of the members may be called by the Board of Directors and such meeting must be called whenever a petition requesting such meeting is signed by at least 10 percent of the members and presented to the secretary or Board of Directors. The purpose of

every special meeting shall be stated in the notice thereof, and no business shall be transacted thereof except such as is specified in the notice. Such notice shall be mailed to each member of record, directed to the address shown on the books, at least ten days prior to the meeting; and such notice shall state the nature, time place, and purposes of the meeting, but no failure or irregularity of notice of any annual meeting, regularly held, shall affect any proceedings taken thereat.

### Section 3. NOMINATION OF DIRECTORS (Amended 11-21-05)

Not less than sixty (60) days nor more than ninety (90) days before each annual meeting of the members of the corporation, the Board of Directors of the corporation shall name a committee of at least three (3) but not more than seven (7) members of the corporation to act as the Nominating Committee to select members to stand for election for the office of Director of the Corporation. The Nominating Committee shall meet and select members who meet the qualifications set out in the Bylaws of the Corporation to be voted upon for the office of Director of the Corporation at the next annual meeting and shall report its nominations to the Board of Directors of the Corporation not less than forty-five (45) days prior to such next annual meeting of the members. Such nominating report shall be signed by the Chairman of the Nominating Committee.

A majority vote of the Nominating Committee shall be required to nominate a candidate and no member of the nominating committee shall be eligible to be nominated as a candidate for director.

A candidate must be a Member of the Corporation pursuant to the provisions of Article II, Section 1 of the Bylaws and all other provisions of Article III of said Bylaws.

(amended 4-15-13) Any thirty (30) or more members may sign a petition seeking the nomination of a Director and said petition shall be signed and filed with the secretary of the Board of Directors not more than one hundred twenty (120) days before the date of the meeting of the members in which the said Director shall be elected and not less than thirty-three (33) days prior to said meeting. The secretary shall forthwith post the list of nominations by petition at the principal office of the Corporation at least twenty-eight (28) days before the annual meeting.

At the time the secretary shall post the list of nominations for Director prior to the annual meeting of the membership, any proposed member seeking the office of Director of the Corporation shall also tender to the secretary of the Board of Directors of the Corporation a valid membership certificate issued by the Board of Directors of the Corporation pursuant to Article II, Section 1. The failure of any Member nominated for the office of Director of the Corporation to tender such valid membership certificate to the secretary shall void the nomination of said Member.

The members present at any meeting of the members shall constitute a quorum at any meeting for the transaction of business. No member shall be entitled to more than one vote and no voting by proxy shall be allowed.

Section 4. The order of business at the regular meetings and so far as possible at all other meetings shall be:

1. Call to order and proof of quorum.
2. Proof of notice of meeting.
3. Reading and action on any unapproved minutes.
4. Reports of officers and committees.
5. Election of Directors.
6. Unfinished business.
7. New business.
8. Adjournment.

Section 5. QUALIFICATIONS AND TENURE OF DIRECTORS (Amended 11-21-05)

Directors shall be elected by secret ballot at the annual meeting of the members. They must be elected by and from the members. The term of office for each Director shall be for a period of three (3) years or until their successor or successors are elected and qualified subject to the provisions of these Bylaws with respect to the removal of Directors. If the election of Directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members as soon thereafter as conveniently may be.

No Member shall be eligible to become or remain a Director or to hold any position of trust in the Corporation who has not been a Member of the corporation for a least twelve (12) months and who has not maintained his or her principal residential abode for a six (6) month period at the location wherein the Member has been issued a certificate of membership by the Corporation, or who is in any way employed by or has a significant financial interest in competing enterprises or businesses selling water or supplies to the Corporation.

No person shall be eligible to become or remain a Director of the Corporation who by blood or in-law, including step or adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother or sister of an existing Director or employee of the Corporation.

Upon establishment of the fact that a Director is holding office in violation of any of the foregoing provisions, it shall immediately become incumbent upon the Board of Directors to remove such Director from office.

When a membership is held jointly, one, but not both, may be elected a Director, provided, however, that neither shall be eligible to become or remain a Director or to hold a position of trust in the Corporation unless he or she shall meet the qualification hereinabove in the section set forth. That in the case of joint membership issued by the corporation, a signature on such petition for nomination of one joint member shall be considered the signature of the other joint member and shall count as one (1) signature only.

Nothing in this section contained shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors.

Section 6. OBJECTION. (Amended 11-21-05)

If any protest or objection is raised following a vote at an election, such protest or objection shall be reduced to writing and filed with the secretary of the Board of Directors within five (5) days of the adjournment of such meeting. The Nominating Committee shall be reconvened not less than ten (10) days after receiving the written protest or objection. The Committee shall hear the evidence presented. Protestors or objectors may be heard in person, by counsel or both; and the Committee, by vote of the majority of those present and voting, shall, within a reasonable period of time, but not more than thirty (30) days after the hearing, render a decision, the results of which may be to affirm the election, to change the outcome, or set it aside. The Nominating Committees' decision on all matters covered by this section shall be deemed final and non-appealable.

**ARTICLE IV**

**DIRECTORS AND OFFICERS**

Section 1. (Amended 4-18-11) The affairs of this Corporation shall be managed by a Board of seven (7) Directors to be elected by and from the members thereof and shall serve for three years and until their successors are elected. The size of the Board may not be changed except by amendment to these articles.

Section 2. (Amended 4-18-11) The Board of Directors shall meet within ten days after their election and shall elect by ballot a president, vice-president, secretary and treasurer from their number, each of who shall hold office until the next annual meeting and until election and qualification of his successor unless sooner removed by death, resignation or for cause. Set the time and date of the regular meeting, set the Board of Director compensation amount, as well as approve the hire of an accountant and attorney.

Section 3. Special meetings of the Board of Directors may be called by the President, and held at any place stated in the notice thereof, upon giving of two (2) days notice, orally or in writing, without the necessity of stating the purpose of the meeting. Notice of any special meeting may be waived by the members of the board, and the presence of any director at any such meeting shall constitute a waiver of notice thereof.

Section 4. If the office of any director or officer becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, except by removal from office, a majority of the remaining Directors shall choose a successor who shall hold office until the end of the unexpired term.

Section 5. Officers and Directors may be removed from office in the following manner: Any member, officer, or director may present charges against a director or officer by filing them in writing with the secretary of the corporation. The charges must be accompanied by a petition signed by ten percent of the membership of the corporation. Such removal shall be voted on at the next regular or special meeting of the members and shall be effective if approved by a vote of the majority of the members present. The director or officer against whom such charges have

been presented shall be informed in writing, of such charges five days prior to the meeting, and shall have the opportunity to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges against him shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the corporation. A vacancy in the board thus created shall immediately be filled by a vote of a majority of the members present and voting. A vacancy in any office thus created shall be filled by the Directors from among their number so constituted after the vacancy in the board has been filled.

**Section 6. PERSONNEL COMMITTEE (Amended 11-21-05)**

The President of the Board of Directors shall appoint three (3) Members of the Board to act as the Personnel Committee. Said Personnel Committee shall be charged with reviewing all personnel issues, including:

- a. Recommendations to the Board of Directors concerning all employee compensation issues.
- b. Any issues related to disciplinary and/or interpretation of personnel policies if such matters have not been first resolved by the General Manager. The Committee shall not consider such issues until the General Manager of the Corporation has attempted to resolve said issues and informed the Committee that further consideration of the matter is necessary.
- c. Implementation of amendments and/or changes to personnel policy.

**ARTICLE V**

**DUTIES OF DIRECTORS**

Section 1. The Board of Directors, subject to restrictions of law, the articles of incorporation, or these By Laws shall exercise all of the powers of the corporation, and without prejudice to or limitation upon their general powers, it is hereby expressly provided that the Board of Directors shall have, and are hereby given, a majority vote at regular or special meeting, in respect to the matters as hereinafter set forth:

- a. To pass upon the qualifications of members, and to cause appropriate certificates of membership to be issued.
- b. To select and appoint all agents, and employees and removal of same for just cause, fix their compensation and pay for services, and prescribe their duties as may not be inconsistent with these By Laws.
- c. To borrow from any source, money, goods, or services and to make an issue notes and other negotiable and transferable instruments and to do every act necessary to effectuate the same.

- d. To prescribe, adopt, and amend, from time to time such equitable uniform rules and regulations as, in their discretion, may be deemed essential or convenient for the conduct of the business and affairs of the corporation and the guidance and control of its officers and employees; and to prescribe adequate penalties for breach thereof.
- e. To order an annual audit of the books and accounts by a competent auditor or accountant. The report prepared by such person shall be submitted to the members at the annual meeting.
- f. To fix charges to be paid, the time of payment, and manner of collection by each member for services rendered to him.
- g. To require adequate bonds, the cost thereof to be paid by the corporation, by all officers, agents, and employees charged with responsibility for custody of any funds of the corporation.
- h. To select the bank or banks to act as depositories of the funds provided such funds are covered by insurance. To determine the manner of receiving, depositing and disbursing of funds, and the form of checks and the person or persons by whom the same shall be signed with the power to make change thereof at will.
- i. To levy assessments against the membership certificates of the corporation and to enforce the collection of such assessments in the manner provided for enforcement of collection of monthly charges in Article VII, Section 5, hereto, by the forfeiture of delinquent certificates of members failing to pay such assessments within the time prescribed for payment, provided, that prior to forfeiture the board must give the member at least thirty days written notice at the last address of the member on the books of the corporation of its intention to forfeit the certificate if the assessment is not paid by a specified date.

Section 2. (Amended 08-17-2020) The Board of Directors may not authorize or approve the sale, lease, or merger of the assets of Brown County Water Utility, Inc.; the plant and works of Brown County Water Utility, Inc.; or the real estate owned by Brown County Water Utility, Inc., without first seeking the approval of the members of Brown County Water Utility, Inc., in an advertised meeting in which at least thirty (30) days' notice must be given in writing to each member at the address reflected on the membership certificate of said member. The notice to members shall include the date, time, place and agenda for the meeting. The notice shall also provide a description of the proposed transaction (i.e. sale, lease, merger, encumbrance or transfer of utility assets to a third party).

At the special meeting of said members, such petition to sell, lease, encumber or merge the assets and works of Brown County Water Utility, Inc., must be approved by three-fourths (3/4) of the total membership of record on the date of the special meeting.

## **ARTICLE VI**

### **DUTIES OF OFFICES**

Section 1. DUTIES OF PRESIDENT. The president shall preside at all meetings of the corporation and of the Board of Directors; shall call special meetings of the board; shall perform such other duties as may be prescribed in those By Laws or assigned to him by the Board of Directors; and shall sign all membership certificates and such other papers as he may be authorized or directed to sign by the Board of Directors.

Section 2. DUTIES OF VICE-PRESIDENT. The vice-president shall act as an aide to the president and shall perform the duties of the president in the absence or inability of that officer to serve.

Section 3. DUTIES OF SECRETARY. The secretary shall record the minutes of all meetings of the corporation and of the Board of Directors. He shall sign all membership certificates with the president and such other papers pertaining to the corporation as he may be authorized or directed to do so by the board. He shall serve all notices required by law and by these By Laws and shall make a full report of all matters pertaining to his office to the members at the annual meeting. He shall keep the corporate seal and membership certificate, records of the corporation, complete and countersign all certificates issued and affix said seal to all papers requiring same. He shall keep a proper membership certificate record, showing the name, date of issuance, surrender, cancellation, or forfeiture. He shall perform such duties as may be delegated to him including the turnover to his successor of all books and other property belonging to the corporation that he may have in his possession.

Section 4. DUTIES OF TREASURER. The treasurer shall receive all monies of the corporation; shall keep an accurate record of receipts and expenditures; and shall pay out funds as authorized by the corporation. The treasurer shall present a financial statement every meeting of the Board of Directors and at other times when requested by the board and shall make a full report at the annual meeting. The treasurer shall furnish the corporation a fidelity bond in an amount equal to the largest sum of funds in his possession at any time.

Section 5. All officers shall perform the duties prescribed in the parliamentary authority in addition to those outlined in these By Laws and those assigned from time to time. The officers shall deliver to their successors all official material, records and property within ten days following the meeting at which they are elected and qualified.

## **ARTICLE VII**

### **BENEFITS AND DUTIES OF MEMBERS**

Section 1. (Amended 4-18-11) The corporation will install, maintain and operate water service lines from its main line or lines to the property line of each member of the corporation. The cost of the service line or lines from the main line or lines of the corporation to the property line of each member shall be paid by the corporation. Duly authorized agents of the Company



shall have access to the premises of the Member at all reasonable hours for the purpose of installing or removing Company property, inspecting piping, reading or testing meters or for any other purpose in connection with the Company's service and facilities.

Section 2. (Amended 4-18-11) Each member shall be entitled to not to exceed one (1) service line from the corporation's system unless otherwise approved by the Board of Directors and provided that the member shall be required to pay the prevalent tap fee for each service line. No new service line or change in an existing service line may be made which will interfere with an existing service line. Each service line shall connect with the corporation's system at the nearest available place to the place of desired use by the member if the corporation's system at that point shall be of sufficient capacity. If the corporation's system shall be inadequate to accommodate a connection at that point, then such service line shall be installed at such place as may be designated by the corporation. Each member will be required to dig or have dug a ditch, to purchase and install, and to maintain such portion of the service line or lines from the property line of the member to his own dwelling or other place of use on his premises at his own expense, provided that the corporation may, if the Board of Directors so elect, purchase the pipe for and install such portion of such service line or lines, the cost of which will, however, be paid by the individual member. Any exception should be reviewed annually, no later than the first day of March.

Section 3. Each member shall be entitled to purchase from the corporation, pursuant to such agreements as may from time to time be provided and required, such service as he may desire, subject to the provisions of these By Laws and to such rules and regulations as may be prescribed by the Board of Directors.

Section 4. The Board of Directors shall, prior to the beginning of each calendar year, determine whether the monthly rates charged are adequate to support the corporation's budget for the following year, and if not, will petition the Utility Regulatory Commission (formerly the Public Service Commission) for an appropriate increase. The flat minimum monthly rate as set up in the rate schedule for the year, will be payable irrespective of whether any service is used by a member during any month. The Board of Directors shall fix the date for the payment of such charges, and shall notify each member or cause each member to be notified of the amount of such charges and dates for the payment thereof. A member to be entitled to the service shall pay such charges at the office of the corporation at or prior to the dates fixed by the Board of Directors. The failure to pay monthly charges duly imposed shall result in the automatic imposition of the following penalties:

- a. (Amended 4-21-14) Non-payment within seventeen (17) days from mailing/billing date will be subject to a penalty of ten (10) percent of that part of the delinquent account which does not exceed \$3.00 plus three (3) percent of any delinquent amount in excess of \$3.00.
- b. (Amended 4-21-14) Non-payment within thirty (30) days from the mailing/billing date will result in the service being shut off from the member's property.

- c. (Amended 4-21-14) Non-payment for sixty (60) days after original mailing/billing date will allow the corporation to terminate the membership certificate as provided for in Article II, Section 2, of these By Laws.

Section 5. (Amended 4-18-11) The Board of Directors shall be authorized to require each member to enter into a water user's agreement which shall embody the principles set forth in the foregoing sections of this article.

Section 6. Membership may be cancelled and/or service discontinued by the corporation for any violation of any rule, regulation, or condition of service and especially for any of the following reasons:

- a. Misrepresentation in application as to the property or fixtures to be supplied or use to be made of the service.
- b. Misuse due to improper or imperfect service pipes and/or fixtures or failure to keep the same in a suitable state of repair.
- c. Tampering with mains or lines or valves or permitting such tampering by others.
- d. Connections, cross-connections, or permitting the same, of any separate line to the premises which receives service from the corporation.

## **ARTICLE VIII**

### **DISTRIBUTION OF SURPLUS FUNDS**

Section 1. It is not anticipated there will be any net income; but if here should be any, then at the end of the fiscal year, after paying all costs of operations and maintenance, set aside reserves for depreciation on buildings, equipment, etc., and such other reserves as may be deemed proper and provide for payment of interest and principal of obligations and debts, and after providing for the purchase of proper surplus fund for the purpose of replacing, enlarging, extending, and repairing the system and property of the corporation and for such other purposes as the Board of Directors may determine to be for the best interest of the corporation. The said surplus fund or any portion thereof may from time to time at the discretion of the Board of Directors be distributed to the members as provided in the By Laws, on the basis of the assessments and charges made and levied against and paid by such member during the year.

Section 2. Any part or the whole of such apportionment may be credited at the discretion of the Board of Directors to the indebtedness of the members, should any exist, and in such case, the members shall be notified in writing of the amount so applied.

**ARTICLE IX**

**RULES OF ORDER**

The rules contained in Robert's Rules of Order Revised shall govern the corporation in all cases to which they are applicable, and in which they are not inconsistent with the articles of incorporation, By Laws or the special rules of order of this corporation.

**ARTICLE X**

**AMENDMENTS**

Section 1. (Amended 4-18-11) Amendments of these By Laws may be adopted by a vote of a majority of the members present at any special or regular meeting of the corporation if the members have been given at least ten (10) days written notice of said meeting and the notice has contained a copy of the proposed amendment or amendments. . In the absence of any amendments, these By Laws must be, at minimum, reviewed every five (5) years.

Section 2. For so long as the corporation is indebted for a loan or loans made to them for the United States of America through the Farmers Home Administration, the By Laws shall not be altered, amended or repealed without the prior consent of the State Director of the Farmers Home Administration for the State of Indiana.