

**TOWN OF LEESBURG
NOTICE OF PUBLIC HEARING
LEESBURG TOWN CODE AMENDMENTS**

ORDINANCE TO ADD, AMEND AND REORDAIN

**CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III
(SEWERS AND SEWAGE DISPOSAL) AND FEE SCHEDULE (APPENDIX B)**

Pursuant to Code of Virginia of 1950, as amended, Sections 15.2-107, 15.2-1427 and 15.2-2119, as amended,

THE LEESBURG TOWN COUNCIL

will hold a public hearing on

Tuesday, July 10, 2012, at 7:30 p.m.

Council Chambers at Town Hall

25 West Market Street, Leesburg, Virginia, 20176

The following Town Code amendments are proposed:

Sec. 34-58. Security deposits for new accounts. Amendments regarding security deposits; all new water accounts require security deposits unless waived pursuant to town policy; deposits shall not be returned to tenants for new accounts after July 1, 2012, until account is closed; all tenants opening accounts after July 1, 2012, must have authorization from landlord unless landlord contracts for water service or unless deposit is waived because of rental assistance or by town council resolution.

Sec. 34-59. Service charge for new accounts. Clarifies term “new accounts” for purposes of the imposition of a service charge.

Sec. 34-62 Rate for water drawn at public meter. Clarifies term “public meter” and amending the rates for water drawn from public meters or K.B. Rollins Water Treatment Plant.

Sec. 34-63.1. Estimates of water consumption when customer is absent. Amends the section from “director of finance” to “town”.

Sec. 34-68. Adjustment of bill for underground leaks. Amends the section from “town finance director” to “town”.

Sec. 34-69. When due and payable; notice, late payment penalty and second billing to delinquent accounts; discontinuance of service to delinquent accounts. Clarifies when bills become delinquent and requiring a security deposit when service is discontinued.

Sec. 34-70. Delinquent charges as lien. Clarifies when bills become delinquent.

Sec. 34-71. A new section establishing miscellaneous fees and charges for utility services.

Sec. 34-161. Delinquent charges as lien. Clarifies when bills are delinquent.

Sec. 34-162. Security Deposit for new accounts. Amendments regarding security deposits; all new sewer accounts require security deposits unless waived pursuant to town policy; deposits cannot be returned to tenants for new accounts after July 1, 2012, until account is closed; all tenants opening accounts after July 1, 2012 must have authorization from landlord unless landlord contracts for sewer service or unless deposit is waived because of rental assistance or by town council resolution.

Sec. 34-163. Service charge for new accounts. Clarifies term “new sewer accounts”.

Fee Schedule Amendments:

Sec. 34-59. Service charge for new accounts: ~~\$10.00~~ \$15.00.

Sec 34-62. Water drawn at ~~public meter~~ designated hydrant: ~~\$10.00~~ \$50.00 service charge plus ~~\$5.44 per~~ out of town high usage water rate per 1,000 gallons of water drawn; Water drawn at K.B. Rollins Water Treatment Plant: \$10.00 per day per truck service charge; plus out of town high usage water rater per 1000 gallons.

Sec. 34-69. Resumption of water service afer discontinuance for nonpayment of charges: ~~\$20.00~~ \$30.00.

Sec. 34-71. New miscellaneous fees and charges:

Trip fee (Subsequent trips or missed appointments)
During normal town working hours: \$30.00
After normal town working hours: \$50.00

Tampering fee (customer activates
meter after shutoff): \$50.00

Customer-requested meter test found to be accurate: \$75.00 for up to 2” meter;
\$250 for meters larger than 2”.

Customer-requested leak check:
During normal town working hours. \$30.00
After normal town working hours: \$50.00

Services performed after normal town working hours: \$70.00 per hour with 2
hour minimum.

Sec. 34-163. Service charge for new sewer accounts: ~~\$10.00~~ \$15.00

A copy of the proposed ordinance amendments are available from the Town Clerk, located in Town Hall. Additional information regarding these proposed amendments is available in the Department of Utilities, located at 1385 E. Market St., Leesburg, Virginia, during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by calling Amy Wyks, Director of Utilities at 703-737-7119.

At this hearing, all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations should contact the Clerk of Council at 703-771-2733,

three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.

6/27/12, 7/4/12



Date of Council Meeting: July 10, 2012

**TOWN OF LEESBURG
TOWN COUNCIL MEETING – PUBLIC HEARING**

Subject: Town Code amendments to Chapter 34 (Utilities) Articles II and III and Section 34 of Appendix B, Fee Schedule.

Staff Contact: Amy Wyks, Director of Utilities

Recommendation: The Town Council should enact an ordinance amending the Town Code Chapter 34 (Utilities) Articles II and III to reflect changes to the State Code as a result of the 2012 General Assembly as well as to update existing water and sewer charges and publish the new water and sewer charges in Section 34 of Appendix B.

Issue: Whether the Town Council should enact an ordinance containing amendments to the Town Code Chapter 34 (Utilities) Articles II and III as a result of recent legislation enacted by the 2012 General Assembly, as well as to update existing water and sewer charges and publish the new water and sewer charges in Section 34 of Appendix B?

Fiscal Analysis: The financial impact anticipated is an increase of approximately \$40,000 - \$60,000 annually in revenue to offset the continuing costs for water and sewer service charges.

Background: The Town Council has been regularly updated by the Town Attorney and the Research and Communication Manager regarding legislation enacted by the 2012 General Assembly. The Town Attorney met with the department directors to discuss legislation relating to their department. The attached ordinance contains amendments to the Town Code to enhance the Town's ability to effectively collect delinquent water and sewer bills from tenants and lessees.

The 2012 General Assembly passed HB567 effective July 1, 2012 which rewrites Virginia Code Section 15.2-2119 (Fees and Charges for water and sewer services). This section regulates how local governments charge customers for water, water and sewer rates, and most important for the present amendments--how localities collect delinquent water and sewer bills, especially those of tenants. If Town Code Sections 34-58, 34-69, 34-70, 34-161 and 34-162 are amended, this will allow the town to place liens on a landlord's property for a tenant's unpaid water and sewer bill, something that cannot be done for existing accounts without the town obtaining a judgment against the tenant and attempting to collect the judgment from the tenant. Under the 2012 amendments to the State Code, an authorization from the landlord and a security deposit must be paid by the tenant in order for the Town to place a lien on a landlord's property. The amendments to the State Code only affect those accounts opened after July 1, 2012.

Previously Town Council passed Resolution No. 2011-133 to initiate amendments to Chapter 34 (Utilities) Articles I and II and Appendix B of the Town Code establishing new and revising various water and sewer charges and fees. The Town has developed a regular process and

schedule for maintaining the Town Code for the purpose of making minor changes resulting from annual state mandated legislative changes, the correction of errors, inconsistencies or problems discovered in the day-to-day administration of Town Code. The following proposed amendments achieve this objective:

- Sec. 34-59. Service charge for new accounts. Clarifies term “new water accounts” for purposes of the imposition of a service charge.
- Sec. 34-62 Rate for water drawn at public meter. Clarifies term “public meter” and amends the rates for water drawn from public meters or K.B. Rollins Water Treatment Plant.
- Sec. 34-63.1. Estimates of water consumption when customer is absent. Amends the section from “director of finance” to “town”.
- Sec. 34-68. Adjustment of bill for underground leaks. Amends the section from “town finance director” to “town”.
- Sec. 34-71. A new section establishing miscellaneous fees and charges for utility services.
- Sec. 34-163. Service charge for new accounts. Clarifies term “new sewer accounts” for purposes of the imposition of a service charge.

The Utilities Department is committed to providing safe water and dependable service. Based on staff review of water and sewer services offered to customers, the expenses to provide utility related services are increasing including after hour requests. Even with the proposed fee increases and establishment of new charges, the Town will remain comparable to neighboring water and sewer utilities. The URAC Committee previously endorsed the adoption of the recommended water and sewer charges. The following Fee Schedule Amendments are proposed:

- Sec. 34-59. Service charge for new accounts: Increase from \$10.00 to \$15.00.
- Sec 34-62. Water drawn at designated hydrant: Increase from \$10.00 to \$50.00 service charge. Increase from the in town water rate to out of town high usage water rate per 1,000 gallons. Water drawn at K.B. Rollins Water Treatment Plant: \$10.00 per day per truck service charge. Increase from the in town water usage water to the out of town high usage water rater per 1000 gallons.
- Sec. 34-69. Resumption of water service after discontinuance for nonpayment of charges: Increase from \$20.00 to \$30.00.
- Sec. 34-71. New miscellaneous fees and charges: This is a new section addressing the services provided by the Town whereas the expenses incurred are not off-set with revenue. Policies regarding the assessment of the fees will be defined and established under the direction of the Town manager.
 - Trip fee (Subsequent trips or missed appointments): Establishment of a new charge of \$30.00 during normal Town working hours and \$50.00 after normal working hours.
 - Tampering fee: Establishment of a new charge of \$50.00 if a customer activates or reactivates meter after discontinuance of water and/or sewer service.

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- Meter test fee: Establishment of a new charge if a customer-requested meter test is found to be accurate. \$75.00 for up to 2" meter; \$250 for meters larger than 2".
- Customer-requested leak check: Establishment of a new charge of \$30.00 during normal Town working hours and \$50.00 after normal working hours.
- Services performed after normal Town working hours: Establishment of new charge for requests for Town personnel onsite at a rate of \$70.00 per hour with a 2 hour minimum.
- Sec. 34-163. Service charge for new sewer accounts: Increase from \$10.00 to \$15.00

Attachment: (1) Draft Ordinance

PRESENTED July 10, 2012

ORDINANCE NO. _____

ADOPTED _____

AN ORDINANCE: TO AMEND AND REORDAIN SECTIONS OF CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III (SEWERS AND SEWAGE DISPOSAL) OF THE TOWN CODE OF LEESBURG, VIRGINIA, 2009, AS AMENDED AND SECTION 34 OF APPENDIX B, FEE SCHEDULE REGARDING WATER AND SEWER CHARGES

WHEREAS, the 2012 Virginia General Assembly amended Virginia Code Section 15.2-2119 (Fees and charges for water and sewer services) to allow localities to more effectively collect delinquent water and sewer bills from tenants or lessees; and

WHEREAS, additionally, during the course of implementing water and sewer fees and charges by the Department of Utilities (“Utilities”), Utilities has identified the need for code changes to clarify and further define various sections of Chapter 34, Article II and III of the Town Code; and

WHEREAS, during the course of implementing water and sewer services, Utilities has identified the need for charges to deter certain activity by water and sewer customers; and

WHEREAS, an increase in the fees and charges for certain activities performed by Utilities is necessary to offset the costs associated with the services provided by Utilities; and

WHEREAS, the increase in fees and charges is comparable and in some cases, lower, than the fees and charges for similar services in neighboring jurisdictions with similar population sizes.

THEREFORE, ORDAINED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. That Chapter 34, Article II of the Town of Leesburg Code, be and the same is hereby amended to read as follows:

AN ORDINANCE: TO AMEND AND REORDAIN SECTIONS OF CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III (SEWERS AND SEWAGE DISPOSAL) OF THE TOWN CODE OF LEESBURG, VIRGINIA, 2009, AS AMENDED AND SECTION 34 OF APPENDIX B, FEE SCHEDULE REGARDING WATER AND SEWER CHARGES

Sec. 34-58. Security Deposit for new accounts.

(a) The ~~finance director~~ town shall require of all new water accounts that serve residences, nonresidential, commercial users, a ~~cash~~ security deposit in the amount established by the town council. The security deposit required by this section may be waived based upon a policy established by the town manager.

(b) Unless made by a tenant or lessee after July 1, 2012, the security deposit will be refunded, without interest after 12 consecutive billing periods during which no more than one past due notice has been issued or when service has been discontinued, after deducting any charges due on final settlement of the customer's account. Security deposits may be returned to tenants or landlords only after the account for which the tenant contracted is closed and paid in full.

(c) Beginning July 1, 2012, tenants or lessees who wish to contract for water services for property owned by a lessor or landlord shall provide to the town authorization from the lessor or landlord that the tenant or lessee may contract for water services in the name of the tenant or lessee. An authorization form shall be provided by the town. This section shall not apply to accounts opened prior to July 1, 2012.

(d) Beginning July 1, 2012, tenants or lessees contracting for water services shall provide a security deposit in the amount of three (3) months the customary and typical amount of water charged based upon the size of the rental property. The rates to be applied for the security deposit required by this sub-section shall be based upon a policy established by the town manager. This section shall not apply to accounts opened prior to July 1, 2012.

(e) Beginning July 1, 2012, no deposit shall be required by a tenant or lessee if the lessor or landlord has attached documentation to the authorization form showing that such lessee or tenant receives need-based local, state or federal rental assistance, or if waived by resolution of town council.

(f) In the event a lessor or landlord fails or refuses to submit the authorization form as required in paragraph (c) above, the town shall require the lessor or landlord to contract for the water service and to pay the required security deposit. This section shall not apply to accounts opened prior to July 1, 2012.

Sec. 34-59. Service charge for new accounts.

A service charge in the amount established by the town council shall be paid for all new water accounts. "New water accounts" shall include new water accounts, the transfer of a water account to a new name or the transfer of an existing water account to a new address.

AN ORDINANCE: TO AMEND AND REORDAIN SECTIONS OF CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III (SEWERS AND SEWAGE DISPOSAL) OF THE TOWN CODE OF LEESBURG, VIRGINIA, 2009, AS AMENDED AND SECTION 34 OF APPENDIX B, FEE SCHEDULE REGARDING WATER AND SEWER CHARGES

Sec. 34-62. Rate for water drawn at hydrant or public meter.

~~The charge for purchase of water drawn at the public meter at the water treatment plant or through a town leased meter shall be the In-Town High Water Usage Rate as established by the town council.~~ Water drawn at an existing designated public fire hydrant with a town issued hydrant meter is assessed a service charge per quarter in addition to the usage water rate per 1000 gallons of water withdrawn. Water drawn at the K.B. Rollins Water Treatment Plant will be charged a per day, per truck service charge in addition to the usage water rate per 1000 gallons of water withdrawn. The charges set forth in this section shall be established by the town council.

Sec. 63.1. Estimates of water consumption when customer is absent.

If a customer is absent from their residence for a period of 60 consecutive days or more, the ~~director of finance~~ town may evaluate and set the account's winter quarter. The policy regarding evaluation of an account's winter quarter shall be established by the town manager. The policy established by the town manager, which may be amended from time to time, is hereby incorporated herein by reference and made a part hereof as if fully set out in this article.

Sec. 34-68. - Adjustment of bill for underground leaks.

When a leak develops in an underground water pipe between a water meter and a premises and the property owner or tenant cannot, by the use of ordinary diligence, discover such leak, the town finance ~~director~~ may adjust the water bill of the user at such location. The policy regarding adjustment of accounts shall be established by the town manager. No credit shall be allowed after ten days from the date the property owner or tenant has knowledge of such leak.

Sec. 34-69. When due and payable; notice, late payment penalty and second billing to delinquent accounts; discontinuance of service to delinquent accounts.

Water bills are due and payable within 30 days from the date of billing. Any billing that remains unpaid after 30 days is delinquent and subject to a ten percent late payment penalty and six percent interest which amounts will be added to the total amount due and payable. A notice shall be mailed, together with a second billing, which will include the late payment penalty and interest at the end of 30 days from the date of billing, and water service will be discontinued if not paid in full within ten days from the date of such notice. When service is so discontinued, a fee for the resumption of service in the amount established by the town council shall be charged. In the event water is discontinued and a security deposit has been refunded pursuant to Section 34-58(b), a security deposit shall be required under Section 34-58 (a) before water service will be restored.

Sec. 34-70. - Delinquent charges as lien.

(a) There shall be a lien upon the real estate for the amount of any rates, fees and other charges for water services rendered by the town to such real estate, from and after the time the bill therefore becomes delinquent. A delinquent bill, under this section, shall be

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defined as ~~any bill that has not been paid within ten days from the notice given pursuant to~~ as set forth in town code section 34-69.

(b) The finance director shall certify to the clerk of the appropriate court for the county the amount of delinquent water charges, penalties and interest together with the fee to be paid for each entry on the judgment records by the clerk.

(c) For purposes of this section, this regulation incorporates the provisions of Code of Virginia § 15.2-2119.

Sec. 34-71. Miscellaneous charges.

There shall be charges for miscellaneous utility services as specified in Appendix B Fee Schedule. The policy regarding the assessment of fees shall be established by the town manager. The fees referenced in this section and set forth in Appendix B Fee Schedule shall be established by the town council.

SECTION II. That Chapter 34 (Utilities), Article III (Sewers and Sewage

Disposal) of the Town of Leesburg Code, be and the same is hereby amended to read as follows:

Sec. 34-161. - Delinquent charges as lien.

(a) There shall be a lien upon the real estate for the amount of any charges made by the town for sewer services rendered to such real estate, from and after the time the bill for such charges becomes delinquent. A delinquent bill, under this section, shall be defined as ~~any bill that has not been paid within ten days from the final notice set forth in town code section 34-69.~~

(b) The finance director shall certify to the clerk of the appropriate court for the county for the amount of delinquent sewer charges, penalties and interest together with the fee to be paid for each entry on the judgment records by the clerk.

(c) For purposes of this section, this regulation incorporates the provisions of Code of Virginia § 15.2-2119.

Sec. 34-162. Security Deposit for new accounts.

(a) The ~~finance director~~ town shall require of all new sewer accounts that serve residences, nonresidential, and commercial users a ~~cash~~ security deposit in the amount established by the town council. The security deposit required by this section may be waived based upon a policy established by the town manager.

(b) Unless made by a tenant or lessee after July 1, 2012, ~~the~~ security deposit will be refunded, without interest, after 12 consecutive billing periods during which no more than one past due notice has been received or when service has been discontinued, after deducting any charges due on final settlement of the customer's account. Security deposits may be returned to tenants or landlords only after the account for which the tenant contracted is closed and paid in full.

AN ORDINANCE: TO AMEND AND REORDAIN SECTIONS OF CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III (SEWERS AND SEWAGE DISPOSAL) OF THE TOWN CODE OF LEESBURG, VIRGINIA, 2009, AS AMENDED AND SECTION 34 OF APPENDIX B, FEE SCHEDULE REGARDING WATER AND SEWER CHARGES

(c) Beginning July 1, 2012, tenants or lessees who wish to contract for sewer services for property owned by a lessor or landlord shall provide to the town authorization from the lessor or landlord that the tenant or lessee may contract for sewer services in the name of the tenant or lessee. An authorization form shall be provided by the town. This section shall not apply to accounts opened prior to July 1, 2012.

(d) Beginning July 1, 2012, tenants or lessees contracting for sewer services shall provide a security deposit in the amount of three (3) months the customary and typical amount of sewer services charged based upon the size of the rental property. The rates to be applied for the security deposit required by this sub-section shall be based upon a policy established by the town manager. This section shall not apply to accounts opened prior to July 1, 2012.

(e) Beginning July 1, 2012, no deposit shall be required by a tenant or lessee if the lessor or landlord has attached documentation to the authorization form showing that such lessee or tenant receives need-based local, state or federal rental assistance, or if waived by resolution of town council.

(f) In the event a lessor or landlord fails or refuses to submit the authorization form as required in paragraph (c) above, the town shall require the lessor or landlord to contract for the sewer service and to pay the required security deposit. This section shall not apply to accounts opened prior to July 1, 2012.

Sec. 34-163. Service charge for new accounts.

A service charge in the amount established by the town council shall be made for all new sewer accounts. “New sewer accounts” shall include new water accounts, the transfer of a sewer account to a new name or the transfer of an existing sewer account to a new address.

SECTION III. That Section 34 of APPENDIX B FEE SCHEDULE be and the same is hereby incorporated and shall be amended to read as follows:

Sec. 34-59. Service charge for new accounts: ~~\$10.00~~ \$15.00.

Sec. 34-62. Water drawn ~~at public~~ at existing designated public fire hydrant with a town issued hydrant meter: \$50.00 ~~\$10.00~~ service charge per quarter in addition to out of town high usage water rate per 1,000 gallons of all water drawn; water drawn at K.B. Rollins Water Treatment Plant: \$10.00 per day per truck service charge 30.00 service charge per quarter in addition to out of town high usage water rate per 1000 gallons of all water drawn.

Sec. 34-69. Resumption of water service after discontinuance for nonpayment of charges: ~~\$20.00~~ \$30.00.

AN ORDINANCE: TO AMEND AND REORDAIN SECTIONS OF CHAPTER 34 (UTILITIES), ARTICLES II (WATER SYSTEM) AND III (SEWERS AND SEWAGE DISPOSAL) OF THE TOWN CODE OF LEESBURG, VIRGINIA, 2009, AS AMENDED AND SECTION 34 OF APPENDIX B, FEE SCHEDULE REGARDING WATER AND SEWER CHARGES

Sec. 34-71. Miscellaneous fees and charges.

Trip fee (Subsequent trips or missed appointments)

During normal town working hours: \$30.00

After normal town working hours: \$50.00

Tampering fee (Customer activates or reactivates meter after discontinuance of water and/or sewer service): \$50.00

Customer-requested meter test found to be accurate: \$75.00 for up to 2" meter; \$250 for meters larger than 2".

Customer-requested leak check:

During normal town working hours. \$30.00

After normal town working hours: \$50.00

Services performed after normal town working hours: \$70.00 per hour with 2 hour minimum.

Sec. 34-163. Service charge for new sewer accounts: ~~\$10.00~~ \$15.00.

SECTION IV. This Ordinance shall become effective on the date approved.

SECTION V. If any provision of this ordinance is declared invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the ordinance.

PASSED this _____ day of July 2012.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council