

**TOWN OF LEESBURG  
NOTICE OF PUBLIC HEARING**

**TO CONSIDER THE FOLLOWING ADDITIONS/AMENDMENTS  
TO THE LEESBURG TOWN CODE:**

**CHAPTER 34 (UTILITIES), ARTICLE II (WATER SYSTEM), DIVISION 1 (GENERALLY), SECTION 34-29 (AVAILABILITY CHARGES FOR WATER SERVICE);**

**CHAPTER 34 (UTILITIES), ARTICLE III (SEWERS AND SEWAGE DISPOSAL), DIVISION 1 (GENERALLY), SECTION 34-127 (AVAILABILITY CHARGE FOR SEWER SERVICE)**

Pursuant to Code of Virginia of 1950, as amended, § 15.2-2119, the **LEESBURG TOWN COUNCIL** will hold a public hearing on **TUESDAY, JANUARY 27, 2015, at 7:30 p.m.**, in the Council Chambers at Town Hall, 25 West Market Street, Leesburg, Virginia, 20176, to consider the following additions/amendments to the Town Code:

The following Town Code amendments are proposed:

**Sec. 34-29. Availability charges for water service.** Amendments to define fee threshold of financing eligibility and interest charge.

**Sec. 34-127. Availability charge for sewer service.** Amendments to define fee threshold of financing eligibility and interest charge.

A copy of the proposed ordinance is available from the Town Clerk, located in Town Hall. Additional information regarding this proposed amendments is available in the Executive Department, located on the first floor of the Leesburg Town Hall, 25 West Market Street, Leesburg, Virginia, during normal business hours (Monday-Friday, 8:30 a.m. to 5:00 p.m.), or by calling Lee Ann Green, Clerk, at 703-731-2733.

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.

01/16, 1/23



**Date of Council Meeting:** January 27, 2015

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Financing of Water and Sewer Availability Fees

**Staff Contact:** Amy Wyks, Director of Utilities

**Council Action Requested:** If Council desires to revise the policy on the eligibility of financing water and sewer availability fees, an Ordinance must be adopted.

**Staff Recommendation:** Staff does not recommend a revision to the current terms for financing water and sewer availability fees as the Town would assume a non-core business role taking on the function of a commercial banking entity. There is a high new business failure rate within the first four years of operation, coinciding with the financing term of 48 months. This will result in increased staff workload for the tracking, enforcement, and collections for non-payment. Extending financing to new customers is inequitable to past customers who have paid the availability fees in full.

**Commission Recommendation:** Not applicable.

**Fiscal Impact:** The Utility would incur additional costs under this proposed change. Providing commercial lending is not a core business function of the Town. In 2012, the National Restaurant Association found that most restaurants close during their first year of operation, and of those that make it beyond the first year, 70% of them close in the next three to five years. This high failure rate coincides with the financing term of 48 months. The high rate of failures would lead to large losses of invested capital needed to maintain the utility system. Failures at these levels would increase the staff workload and the need for tracking, enforcement, and collections for non-payment.

**Executive Summary:** Town Code Sections 34-29, and 34-127 provide for financing (installment payments) of availability fees in excess of \$10,000 for water, and \$15,000 for sewer. At the December 9, 2014 Council Work Session, Council discussed amendments to the Town Code revising the interest rate, and the threshold for eligibility of financing water and sewer service availability fees.

**Background:** At the October 11, 2006 Council meeting, Council adopted an amendment to Town Code Sections 34-29, and 34-127 to allow water and sewer service availability fees that meet certain cost thresholds to be paid in installments. Ordinance 2006-O-66 identifies the respective thresholds in excess of \$10,000 for water, and \$15,000 for sewer.

The Town Code addresses the water availability fees and sewer availability fees separately. In addition, sewer availability fees are approximately 50% higher per gallon than water availability fees. The current minimum water availability fee for a new business is \$4,683. The current minimum sewer availability fee is \$7,292. As such, the current total combined minimum water and sewer availability fee for a new business is \$11,975.

During the December 8, 2014 Work Session, Council discussed a potential reduction in the financing thresholds, and interest rate. As a result, the proposed Town Code amendments are included in the attached draft Ordinance.

**Attachments:** Draft Ordinance

# Financing Availability Fees

Council Meeting – Public Hearing

January 27, 2015

# Town Availability Fee Overview

- Ordinance (95-O-14) adopted by Town Council
- Fees set by Town Council (Last increase FYo8).
- Calculation of fee is based on type of use and estimated gallons per day.
- Fees and corresponding purchased capacity convey with the property.
- Change in use can trigger payment of additional fees.
- Council adopted Portability of fees for eligible parcels.
- Fee financing is available if meet Town Code qualifications.

# Current Availability Fees

Type	Water Fee	Sewer Fee	Total
Single Family/Duplex	\$4683	\$7292	\$11,975
Multi-Family/Townhouse	\$3744	\$5852	\$9,596
Commercial (Non-Residential)	\$13.33/gpd	\$20.20/gpd	\$33.53/gpd
Note: Minimum Commercial	\$4683	\$7292	\$11,975

- Comparable to other jurisdictions and water/sewer authorities.
- Gallons per day = gpd

# Current Town Financing

- Financing is option when fee is greater than \$10,000 for water and/or \$15,000 for sewer.
- Amount exceeding \$10,000 for water and/or \$15,000 for sewer may be paid in installments.
- Contract for installment payments shall:
  - Be approved by Town Manager.
  - Not exceed 60 monthly installments.
  - Provide for interest to paid on the unpaid balance.
  - Require a surety.
  - Not impose a pre-payment penalty.
- If installment is not paid, entire remaining balance shall be immediately due. Discontinue of water service will occur if balance remains unpaid after 10 days from date of notice.

# Proposed Amendments for Town Financing of Availability Fees

- Financing is option when fee is greater than current minimum commercial availability fee for water and/or for sewer.

Type	Water Fee	Sewer Fee	Total
Minimum Commercial	\$4683	\$7292	\$11,975

- Amount exceeding minimum commercial availability fee for water and/or sewer may be paid in installments.
- Revise interest rate to be the lower of prime + 3% or legal judgment rate (6%)

# Tasks for Revised Financing

- Standard operating procedure and process for financing.
- Standard Financing Agreement reviewed and approved by Town Attorney's office.
- Billing and collections process.
- Update webpage and permit.
- Coordinate with Economic Development staff.
- Evaluate impact on Utility Fund when availability fee financing is utilized.

# Question and Answer

Work Session Discussion

PRESENTED: \_\_\_\_\_

ORDINANCE NO. 2015-O-\_\_\_\_\_

ADOPTED: \_\_\_\_\_

AN ORDINANCE: AMENDING CHAPTER 34 (UTILITIES), ARTICLE II (WATER SYSTEM), DIVISION 1 (GENERALLY), SECTION 34-29 (AVAILABILITY CHARGES FOR WATER SERVICE) AND CHAPTER 34 (UTILITIES), ARTICLE III (SEWERS AND SEWAGE DISPOSAL), DIVISION 1 (GENERALLY), SECTION 34-127 (AVAILABILITY CHARGE FOR SEWER SERVICE)

WHEREAS, the Code of Virginia of 1950, as amended, § 15.2-2119 allows the Town Council to set water and sewer availability fees; and

WHEREAS, the town code currently authorizes the financing of water and sewer availability fees which is advantageous to commercial property owners and perspective tenants; and

WHEREAS, Council has recommended amendments to Town Code §§ 34-29 and 34-127 regarding financing of water and sewer availability fees in order to allow additional customers the benefit of financing; and

WHEREAS, staff has reviewed and presented the current process and eligibility of financing of availability fees; and

WHEREAS, the Town Council held a public hearing on January 27, 2015 to consider these amendments to the Town Code.

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

**SECTION I. § Sec. 34-29. - Availability charges for water service.**

- (b) The water connection and water service availability fees shall be paid prior to the issuance of a zoning permit or, where no zoning permit is required, before extension of water service to any new or additional use on the premises, provided however that in the event the availability fee per connection is in excess of ~~\$10,000.00~~ **current minimum commercial fee**, the amount owed exceeding ~~\$10,000.00~~ **current minimum commercial fee** may be paid in installments pursuant to a contract that has been approved by the town manager. Such contract shall coincide with a commercial

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lease but for not more than 60 monthly installments and shall provide for interest to be paid on the unpaid balance at the legal judgment rate or ~~six~~ **prime plus three (3)** percent per annum, whichever is ~~greater~~ **less**. Surety to the satisfaction of the town manager shall be required. The unpaid principal may be paid in full without penalty at any time. If any installment is not paid when due, the entire remaining balance shall be immediately due and payable. The town manager shall discontinue water service to the premises for which the fees required in this article remain unpaid for ten days from the date of notice of the amount of such fees to the owner or contract holder. Should the water service availability fee be delinquent, any sums paid on the account for any charges shall be applied to the availability fee charge first, then any remaining balance to other charges.

**§ 34-127. - Availability charge for sewer service.**

- (b) The sewer connection and sewer service availability fees shall be paid prior to the issuance of a zoning permit or, where no zoning permit is required, before extension of sewer service to any new or additional use on the premises, provided however that in the event the availability fee per connection is in excess of ~~\$15,000.00~~ **current minimum commercial fee**, the amount owed exceeding ~~\$15,000.00~~ **current minimum commercial fee** may be paid in installments pursuant to a contract that has been approved by the town manager. Such contract shall coincide with a commercial lease but for not more than 60 monthly installments and shall provide for interest to be paid on the unpaid balance at the legal judgment rate or ~~six~~ **prime plus three (3)** percent per annum, whichever is ~~greater~~ **less**. Surety to the satisfaction of the town manager shall be required. The unpaid principal may be paid in full without penalty at any time. If any installment is not paid when due, the entire remaining balance shall be immediately due and payable. The town manager shall discontinue sewer service to premises for which the fees required in this article remain unpaid for ten days from the date of notice of the amount of such fees to the owner or contract holder. Should payment not be made on said contract ten percent of the monies paid to the town for water and sewer service shall be applied to the availability fee contract until such contract is paid in full. Should the sewer service availability fee be delinquent, any sums paid on the account for any charges shall be applied to the availability fee charge first, then any remaining balance to other charges.

**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

AN ORDINANCE: AMENDING CHAPTER 34 (UTILITIES), ARTICLE II (WATER SYSTEM), DIVISION 1 (GENERALLY), SECTION 34-29 (AVAILABILITY CHARGES FOR WATER SERVICE) AND CHAPTER 34 (UTILITIES), ARTICLE III (SEWERS AND SEWAGE DISPOSAL), DIVISION 1 (GENERALLY), SECTION 34-127 (AVAILABILITY CHARGE FOR SEWER SERVICE)

**SECTION III.** This ordinance shall become effective upon passage.

**SECTION IV.** 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 \_\_\_\_\_, 2015.

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council