

**ORDINANCE #17-13**

**AN ORDINANCE TO AMEND AND RESTATE SECTIONS 19-10 OF ARTICLE I; 19-29 AND 19-30 OF ARTICLE II; AND 19-77; 19-81; 19-82 AND 19-83 OF ARTICLE IV; CHAPTER 19 OF THE WILLIAMSBURG CODE IN ORDER TO BRING THE PROVISIONS OF SUCH ARTICLES INTO COMPLIANCE WITH SENATE BILL 1189**

WHEREAS, the Virginia General Assembly at its 2017 Session enacted Senate Bill 1189 that amends and reenacts Sections 2119, 2119.1, 2122 and 5139 of Title 15.2-of Virginia Code pertaining to billing and collection procedures applicable to water and sanitary sewer systems of Virginia localities; and

WHEREAS, it is necessary to amend and reenact certain sections of Chapter 19, Articles I, II and IV of the city code to comply with Senate Bill 1189;

IT IS THEREFORE ORDAINED, that the hereafter identified sections of Articles I, II and IV of Chapter 19 of the Williamsburg Code are hereby amended and restated as follows:

**ARTICLE I – IN GENERAL**

**Sections 19-1 through 19-9 are unchanged. Section 19-10 is Amended and Restated as follows:**

Sec. 19-10. - Application for service to existing connections; deposit required—Generally.

Any person(s) who desires to obtain water and/or sanitary sewer services to a presently existing connection to premises in the city or in an area outside of the city to which the city provides such service shall complete and submit to the city an application for service on form supplied by the city. Such application must be complete. An application made by a tenant or lessee of property connected to the city's public water system may be made by the tenant or lessee of such property after (i) obtaining from the property owner a written or electronic authorization to obtain water and sewer services in the name of such lessee or tenant which application must be accompanied by a deposit as provided below. For purposes of this section, a written or electronic authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows, or a copy of the lease or rental agreement, shall be sufficient compliance with this section:

DATE

[INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: [INSERT FULL TENANT NAME AND ADDRESS]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Whom It May Concern:

[INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS] and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME].

Signed: \_\_\_\_\_

(a) All applicable fees, charges and deposits shall be paid when service is provided, and may be included as part of the first bill. Service shall not be provided to any prospective customer if that customer has any outstanding and unpaid charges arising from prior water and/or sanitary sewer service to such prospective customer.

(b) A deposit in the following amount shall be required when water is turned on:

\$50.00 to a single-family residence or separate residential unit in a multi-family complex when the applicant is the owner thereof when property is located outside of the geographical boundaries of the city.

\$50.00 to a single-family residence or separate residential unit in a multi-family complex when the applicant is not the owner thereof and (i) the owner of such property gives written consent to the applicant or the applicant submits a valid lease.

\$50.00 to a small business such as a flower shop, card shop, grocery store, or any other establishment not otherwise listed here which would reasonably be expected to have a water usage of less than 3,000 gallons per day, who are tenants of business properties located in the city or who are tenants or freehold owners of business properties located without the city.

\$250.00 for carwashes, restaurants, hotels, motels, and apartment complexes (which do not have individually metered water connections) with less than 50 units located within or without the city, and for any other business whether within or without the city which in the opinion of the city's director of public works, is reasonably expected to have annual average water usage in excess of 3,000 gallons per day, but less than 10,000 gallons per day.

\$500.00 for hotels, motels and apartment complexes (which do not have individually metered water connections), having 50 or more rental units whether within or without the city, and for any other business whether within or without the city which in the opinion of the city's director of public works, is reasonably expected to have annual average water usage of 10,000 gallons per day or greater.

The deposit may be paid in cash, by check, credit card, money order or other guaranteed collectable funds. Should a customer pay said deposit with a check which is subsequently not honored by the financial institution from which the funds are drawn, the city may require said deposit to be paid using only cash, credit card, or guaranteed collectable funds.

The above notwithstanding, no security deposit shall be required from the lessee or tenant to obtain water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the department of finance a landlord authorization letter which has attached documentation showing such lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a security deposit shall not prevent a locality from exercising its lien rights as provided in section 19-82(b).

All agencies of the state are hereby exempted from payment of deposit on account of water service as required by section 19-27.

(c) Upon failure to pay water or sanitary sewer fees and charges for a period of 60 days after the same are due and payable, the deposit may thereupon be applied to the payment of the same. The residue of the deposit applied upon termination of service for non-payment, if any, shall be held for an additional 30 days after the expiration of which time, if the customer has not requested the unexpended portion of the deposit, it may be forfeited to the city.

- (d) It shall be unlawful for a customer to vacate the premises without first giving notice to the city of the time when such removal is to take place.

## ARTICLE II – WATER

**Sections 19-26 through 19-28 and 19-32 and 19-33 are unchanged. Sections 19-29 and 19-30 are Amended and restated as follows:**

Sec. 19-29. - Cutting water on or off; penalty.

No connection, reconnection or disconnection to or from the city's water system whether within or outside of the city's corporate limits shall be made without approval by the city manager or the city manager's designee. Any person who cuts off or on water service either within or outside of the city's corporate limits, without the knowledge and consent of the city manager or his designee, shall be assessed a civil penalty of \$150.00 for the first offense, due and payable in full within 30 days of the date of notice of the assessment. If the violation is not satisfactorily resolved and the penalty not paid in full by its due date, the offense shall be prosecuted as a class 4 misdemeanor. Subsequent offenses by the same person shall be punishable as a class 2 misdemeanor.

Sec. 19-30. - Injuring or turning on fire hydrant, valve, etc.

No person shall injure, break or remove any portion of any fire hydrant, valve, valve box or any part of the water system, and no person shall turn on or off any valve or fire hydrant unless authorized by the city manager or the city manager's designee. Any person who violates this section shall be guilty of a class 4 misdemeanor for the first offense. Subsequent offenses by the same person shall be punishable as a class 2 misdemeanor.

## ARTICLE IV – RATES, CHARGES, BILLING PROCEDURE

**Section 19-76 is unchanged. Section 19-77 is Amended and restated as follows:**

Sec. 19-77. - Bills; disconnecting services.

The bills rendered for water and sanitary sewer services shall show the full amount owing and unpaid for each of such services set up on the one bill and shall show late payment penalties and interest assessed pursuant to section 19-82.

- (a) Property owner delinquent: If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall at that time be owed as provided in section 19-82 below, and the owner and occupants of such real estate shall, until such fees and charges are paid with such penalty and interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system. If such owner does not pay the full amount of charges, penalty, and interest for water and sewage disposal provided or cease such disposal within 30 days thereafter, the director of finance or the director's designee shall notify such owner of the delinquency. If such owner does not pay the full amount of charges, penalty and interest for such services or cease such disposal within 60 days after the delinquent fees and charges charged for water and sewage disposal services are due, the city may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the director of finance or the director's designee shall provide the owner with written notice of such cessation. Such fees and charges and any penalty and interest thereon, shall constitute a lien against the property, ranking on parity with liens for unpaid taxes.

- (b) Lessee or tenant delinquent: If the fees and charges charged for water service or sewage disposal services by or in connection with any real estate occupied by a lessee or tenant in whose name the account for such services has been listed as provided in section 19-10 are not paid when due, a penalty and interest shall be owed by the lessee or tenant as provided in section 19-82. If such lessee or tenant does not pay the full amount of charges, penalty and interest for water provided or cease sewage disposal within 30 days after such due date, the director of finance or the director's designee shall notify such lessee or tenant of the delinquency. If such lessee or tenant does not pay the full amount of charges, penalty and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges for water or sewage disposal services were due, the city will cease supplying water and sewage disposal services to such property unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the director of finance or the director's designee shall provide the lessee or tenant with written notice of such cessation, with a copy to the property owner.

If the lessee or tenant does not pay the full amount of charges, penalty, and interest for water or the use and services of the sewage disposal system in a timely manner as provided in section 19-82, in addition to cessation of such services, the director of finance or the director's designee shall employ reasonable collection efforts and practices to collect amounts due from the lessee or tenant prior to taking any collection or legal action against the property owner regarding the delinquency of payment by such lessee or tenant. For the purposes of this subsection, "reasonable collection efforts and practices" include (i) applying the security deposit paid by the lessee or tenant held by the city to the payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program (Va. Code § 58.1-520 et seq.) or placing the account with a debt collection service.

The notice of termination shall contain the following: (i) The date of issuance; (ii) The amount due ; the effective date of termination which shall be no earlier than 60 days from the date of the delinquency (see subsections (a) and (b) above); (iii) notice that unless the department of finance receives complete payment of the amount shown prior to the effective date of termination, water and sewer services shall be terminated; (iv) that in lieu of paying the entire amount shown, prior to the effective date of termination the customer may notify the department of finance that such customer disputes the correctness of all or part of the amount shown in the notice of termination. In such case, all requirements of the dispute process set forth in section 19-80 shall apply; and (v) the telephone number of the city's customer service representative.

**Sections 19-78, 19-79 and 19-80 are unchanged. Section 19-81 is Amended and restated as follows:**

**Sec. 19-81. - Termination of water and sanitary sewer services; general.**

Water and sanitary sewer services shall be terminated for the following causes:

- (a) Nonpayment of utility charges due; termination to be accomplished subject to the procedures described in section 19-77.
- (b) Contamination of the water supplied by the city when caused by an appliance or apparatus of the customer.
- (c) Service to a customer is of such magnitude or such character that utility service to other customers is adversely affected.
- (d) Failure to protect and maintain the water service pipe or building sewage drain on the property of the customer in a condition satisfactory to the city.

- (e) Tampering or altering any meter, service connection, water service line, sewer service line, curb stop, seal or any other appliance or apparatus of the city that controls or regulates the customer's water supply by the customer, or others with the knowledge of the customer.
- (f) Failure to provide to city employees free and reasonable access to the premises served, or for obstructing ingress to the meter or other appliances which control or regulate the customer's water supply.
- (g) Failure to correct a backflow or cross-connection violation as required by the Waterworks Regulations of the Virginia Department of Health or the Virginia Uniform Statewide Building Code, as the same may be in effect from time to time.
- (h) Failure to comply with any pertinent regulations issued by the city's department of public works pertaining to use of the city's water and sanitary sewer disposal systems.
- (i) Fraud or abuse, including the nondisclosure of information on the "application for service" or any false statement or misrepresentation.
- (j) Negligent or wasteful use of water during periods when restrictions on consumption are imposed to conserve water.
- (k) Revocation or suspension of the permit issued by the Hampton Roads Sanitation District.

Termination of water or sewer service to any premises for any cause shall not prevent the City from pursuing any lawful remedy by action of law or otherwise for the collection of monies due from the customer.

**Section 19-82 is deleted and Sections 19-83 and 19-84 are Re-numbered 19-82 and 19-83 and Amended and Restated as follows:**

**Sec. 19-82. - Delinquent accounts; penalty and interest.**

Fees and charges for water and sanitary sewer services not paid within 30 days from the date of billing shall be subject to a late payment fee of five percent of the delinquency. The city shall apply a delinquent charge of \$1.50 or five percent of the unpaid bill, whichever is greater, to all bills for water and sanitary sewer services that are not paid within 30 days after the date of the bill. Additionally, interest shall accrue on all bills that are not paid within 30 days of the date of the bill at the rate of one percent per month. For purposes of this section, a bill is paid when payment is received by the department of finance. In addition to the late payment penalty described above an additional penalty of \$40.00 shall apply when water service has been disconnected to cover the cost of disconnecting and reconnecting the service.

**Sec. 19-83. – Delinquent accounts; lien.**

Delinquent fees and charges for water and sanitary sewer services together with penalty and interest shall constitute a lien against the premises served and the property upon which such premises is located (collectively referred herein to as the "property"), ranking on a parity with liens for unpaid taxes as follows:

- (a) Unless water or sewer services or both are provided to a lessee or tenant in whose name the account for such services has been listed as provided in section 19-10 the property so served, a lien ranking on a parity with liens for unpaid taxes for up to the number of months of delinquent water and sewer charges together with any applicable penalties and interest on such delinquent charges and reasonable attorney fees and other costs of collection not exceeding 20 percent of such delinquent charges may be placed on the property. Provided, however, that prior to recording the lien the owner shall have been advised in writing that a lien may be placed upon the property if the owner fails to pay any delinquent water and sewer charges. Such written notice shall be provided at least 30 days in advance of recordation of any lien with a copy of the bill for delinquent water and sewer charges to allow the property owner a reasonable opportunity to pay the amount of the outstanding balance and avoid the recordation of a lien against the property. In no case shall a lien for less than \$25 be placed against the property.

- (b) When the water or sewer is, or both, are provided to a lessee or tenant, and only after the city has taken the reasonable collection efforts set forth in subsection 19-77(b) and practices to collect such fees and charges from the lessee or tenant may the city proceed to notify the property owner of such outstanding lien obligation of such lessee or tenant and thereafter to record a lien against the property owner for up to three months of such delinquent water and sewer charges. Such written notice shall be provided at least 30 days in advance of recordation of any lien with a copy of the bill for delinquent water and sewer charges to allow the property owner a reasonable opportunity to pay the amount of the outstanding balance and avoid the recordation of a lien against the property. Such lien shall rank on parity with liens for unpaid taxes.

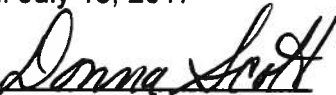
If a lien is recorded against the property owner and the property owner pays any of the delinquent obligations of such former lessee or tenant, upon payment of the outstanding balance, or any portion thereof, or of any amounts of such fees and charges owed by the former tenant, the property owner shall be entitled to receive any refunds and shall be subrogated against the former tenant in place of the locality or authority in the amount paid by the property owner. The locality or authority shall execute all documents necessary to perfect such subrogation in favor of the property owner.

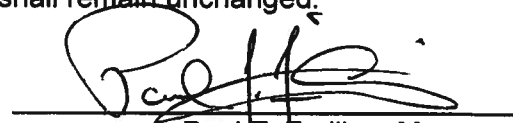
Unless a lien has been recorded against the property owner, the city shall not deny service to a new tenant who is requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges charged for the use and services in the name of the former previous tenant. In addition the city shall provide information relative to a former tenant or current tenant to the property owner upon request of the property owner. If the property owner provides the city a request to be notified of a tenant's delinquent water or sewer bill and provides an email address, the director of finance or the director's designee shall send the property owner notice when a tenant's water or sewer bill has become 15 days delinquent.

- (c) The lien shall not bind or affect a subsequent bona fide purchaser of the property for valuable consideration without actual notice of the lien until the amount of such delinquent charges is entered in the official records of the office of the clerk of the circuit court in the jurisdiction in which the property is located. The clerk shall make and index the entries in the clerk's official records for a fee of \$5.00 per entry, to be paid by the locality and added to the amount of the lien.
- (e) A lien filed hereunder may be discharged by the payment to the department of finance of the total lien amount. The department of finance shall deliver a fully executed lien release substantially in the form set forth in Virginia Code § 15.2-2119(H) to the person making the payment. The department of finance shall provide the fully executed lien release to the person who made payment within ten business days of such payment if the person who made such payment did not personally appear at the time of such payment. Upon presentation of such lien release, the clerk shall mark the lien satisfied. There shall be no separate clerk's fee for such lien release.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: July 13, 2017

Attest:   
Donna Scott, City Council Clerk

  
Paul T. Freiling, Mayor