

**September 11, 2018**

**MINUTES OF THE BROOKNEAL TOWN COUNCIL**

**7:00 PM – The regular meeting of the Brookneal Town Council**

The municipal government of the Town of Brookneal met at the Brookneal Community Building with the following members present:

James Nowlin, Vice Mayor

Barbara Laprade, Mark Wilkes, Robert Jean, Richard Adams, and Joseph B. David, Jr., Council Members

Richard Baldwin, Chief of Police

Russell Thurston, Town Manager

Mike Crews, Public Works Director

Bobbie Waller, Clerk/Treasurer

Absent: Phyllis Campbell, Mayor

**INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

**PUBLIC HEARING CONCERNING REPEALING AND REPLACING THE WATER AND SEWER ORDINANCE (CHAPTER 50—TOWN CODE)**

Vice Mayor Nowlin called the public hearing concerning repealing and replacing the water and sewer ordinance (Chapter 50—Town Code) to order at 7:03 p.m. Town Manager Russell Thurston said that he had asked for a public hearing concerning changing the water and sewer ordinance as far as billing is concerned. He said that state law made a change that recently went into effect that will give the Town the opportunity to charge a deposit in advance for connecting water at a rental property. He noted in the past the town has lost \$10-15,000 per year on people who rent property, stay a few months, run up a large bill, and then leave without notifying the Town office or leaving a forwarding address. He said that there is very little means to track them down to collect their debts. He said the General Assembly passed some new laws which he incorporated into the current ordinance. He said a motion to repeal the current ordinance would be needed, and then a motion to replace it with the proposed ordinance. He said the main purpose of this repeal and replace is to stop the Town from losing so much money in delinquent water accounts. He said that the customer would be due a refund of whatever deposit balance is left after all outstanding bills are paid. He said the law states that the Town can now charge up to a 5 months' water bill deposit.

He said about a year or so ago there was a discussion about backflow preventers; he said that it is also in the revised ordinance that any new construction would have to comply with current building codes which call for having a backflow preventer device on any type of drain that is connected to the sanitary sewer. He said if this is put into effect, he would like for it to go in effect October 1, 2018. Councilperson Jean asked about the deposit being the same or could it be different for some customers. Mr. Jean said he was thinking that the ones that move very frequently, that their deposit should be higher than someone new moving to the area that has a clean slate. Mr. Thurston said that he will keep that in mind as he puts this effect. Mr. Thurston

clarified for Councilperson Adams' question that the ordinance changes only apply to rental properties. Mr. Thurston noted that the person that owns the property must sign a statement that says they authorize the tenant to put the water into their name. He said it also states that the landlord can be liable for up to 3 months of unpaid water bills if the tenant skips out on the Town bill. He noted there is no deposit for homeowners. Mr. Thurston said that the ordinance does not state a dollar amount for a deposit. Councilperson Laprade asked about being consistent in charging people. She said there should be criteria for what you charge. Mr. Thurston noted that the ordinance says that the Town can charge up to 5 months of the average bill in the form of a deposit. Consensus of the Council was to go with the 5 months of deposit.

Councilperson Adams asked about when the property owner would be notified that a tenant is in arrears on the water bill. Mr. Thurston said that according to state law after 30 days, the owner and tenant have to be notified that the account is behind 30 days. Mr. Thurston said that experience has been that landlords seem to rent to people that have a history of great difficulty managing their finances; they come in the Town office, open an account and in 2 months they are gone, and leave the Town hanging with a \$200 water bill.

Vice Mayor Nowlin closed the public hearing at 7:20 p.m.

### **MOTION TO REPEAL CHAPTER 50, TOWN CODE WATER AND SEWER ORDINANCE**

Upon motion by Robert Jean, seconded by Joseph David, and unanimously carried, the Council voted to repeal the current Chapter 50, Town Code Water and Sewer Ordinance.

### **MOTION TO ENACT THE NEW CHAPTER 50, TOWN CODE WATER AND SEWER ORDINANCE**

Upon motion by Robert Jean, seconded by Richard Adams, and unanimously carried, the Council voted to enact the new Chapter 50, Town Code Water and Sewer Ordinance. The new ordinance is presented below:

Brookneal, VA Code of Ordinances

## **CHAPTER 50: GENERAL PROVISIONS**

Section

### *Water and Sewer Service; Rates and Charges*

- 50.01 Water and sewer connection procedure
- 50.02 Water and sewer rate schedule
- 50.03 Metered rates; water rate schedule
- 50.04 Metered rates; sewer rate schedule
- 50.05 Billing policy
- 50.06 Use of service and billing date

- 50.07 Out-of-town rates (amended/no longer applicable 3/3/2015)
- 50.08 Charges due and payable upon vacation of premises
- 50.09 Responsibility for sewer service charges

**Charter reference:**

*Utilities, see §§ 10 et seq.*

**Statutory reference:**

*Health regulations pertaining to public water supplies, see VA Code, current statute*

*Local sewage disposal, see VA Code, current statute*

*Local water supply systems, see VA Code, current statute*

*Water-saving ordinances, see VA Code, current statute*

*Water supply emergency ordinances, see VA Code, current statute*

The State Corporation Commission (SCC) does not regulate municipal utilities. The Commonwealth of Virginia has not enacted any type of winter rate policies related to service termination due to non-payment for natural gas and electricity customers. The town of Brookneal only operates water, sewer and solid waste services and has not enacted any winter rate policies.

## **WATER AND SEWER SERVICE; RATES AND CHARGES**

### **§ 50.01 WATER AND SEWER CONNECTION PROCEDURE.**

- (A) *Application for brand new connection, where no previous physical connection exists.* Anyone who wishes to be connected to the town water or sewer system must first complete an application at the town office to provide the necessary information for town staff to develop cost estimates. If an applicant fails or refuses to supply the town with the information needed to establish a new physical connection to the system, no new connection can be established.
- (B) *Cost estimates for availability fee, connection fee, new account fee, materials and labor.* Where a new connection to an existing town water or sewer main is feasible, as determined by town staff and in compliance with other parts of town code, a written cost estimate will be prepared which includes availability flat fee, new account setup fee, and variable **connection fees:** new water meter, estimates for the cost of materials to extend town main lines to the customer's water and/or sewer laterals from the most convenient location on the existing mains. And an estimate for the town labor costs, to physically connect to the main line.

Lines will only be installed after the property owner agrees to pay for the costs and only after the property owner provides proper documentation to the town for any and all easements and rights-of-way needed for connection.

It is the property owner's responsibility to acquire easements or right-of-way necessary for connections. It is the responsibility of the property owner to install at the owner's expense either water and/or sewer lines from the structure to the water meter and/or sewer main. If connection to town main lines requires work under a road, or sidewalk, or some other structure or impediment; the property owner must contract with a qualified construction company to install the necessary pipes, lines, drains, pumps, electricity etc. in order to reach the town main lines.

The town may not have adequate resources for example to cut roads, sidewalks, etc., install piping, tubing, plumbing, pumps, electricity etc. and rebuild in accordance with state regulations. It shall be the responsibility of the private contractor selected by the property owner to interact with VDOT in order to obtain any permits needed for work conducted within the state right-of-way. The Town of Brookneal is only responsible for making the final tie-in connections of the owner's lateral lines directly to the water meter, or sewer main line. The work to perform the actual, physical connection of private lateral lines to the public main shall be scheduled in advance to be performed during normal town workdays and not before or after hours, on weekends, or holidays.

It is the property owner's responsibility to select a qualified contractor of their choice to perform work in the state right-of-way. It is the owner's responsibility to understand the costs that will be charged by the private, specialty contractor. It is the owner's responsibility to pay for the costs of contracted work in the state right-of-way. The charges assessed by the town, are only for those activities directly performed by the town and do not include the cost of specialty contracting, which again are separate expenses to be paid by the property owner.

- (C) *Connection fees Definition:* Connection fees are not the same as availability or any other fees. Connection fees are variable and are the charges the customer pays to the town to have water and sewer main lines physically extended (where possible) to a point where the customer's private water and sewer laterals can be connected to the public main lines. Connection fees shall be the cost of the materials and labor. The town will create and present to the property owner a good faith, written cost estimate of connection fees. The customer will only be charged for actual labor and material expenses. If the final job is less than the written estimate, the customer is only charged for actual expenses. If the project requires more labor and materials than estimated, the customer must pay those extra charges. The town works in good faith to do the job safely, efficiently, and professionally.
- (D) The town is not responsible for installing water and/or sewer main lines under any road, sidewalk, railroad track, foundation, slab etc. for the purpose of supplying water and/or sewer service to any property. It is the property owner's responsibility to install their private lines from their structure to the new water meter, and up to and within three feet of the town sewer main line even if such connections are on the opposite side of the road from the structure to be served. The town will strive to assist the property owner with developing the most direct route to tie in to the existing town main lines.
- (E) New sewer laterals from property owner's structure must connect to the town main line at or slightly above the grade of the town main line. The town will not connect any private

sewer lateral to the main sewer line, when the private lateral is below the grade of the town sewer main line. Where necessary forced pumps may be permissible when authorized by the town. Forced pumps shall be installed and maintained at the expense of the property owner. All new sewer laterals installed shall have backflow prevention devices installed by a licensed plumbing contractor to prevent sewerage/waste water from backing up into the structure being served. All property owners are responsible for taking every precaution to protect their property from a water/sewer backup/overflow. The town shall not be responsible for any sewerage/waste water backup except in cases of intentional and willful neglect. Sewer backups are rare but can occur due to no fault of the town. All property owners are encouraged to talk to a licensed property and casualty insurance agent to make sure water/sewer backups will be covered should such event occur. It is not the town's responsibility to clean up a sewer or water backup in a structure unless the backup was caused, and can be proven to have resulted from intentional and willful neglect. (1997 Code, § 70-32) (Ord. passed 8-17-1993)

(F) *Payment of costs.* Payment for the connection of water and/or sewer service to the town's main water and or sewer line shall be done in the following manner:

(1) All fixed fees and known expense amounts shall be paid prior to the town starting any work to extend service to the property in question.

(2) Payment for variable connection fees including but not limited to materials and labor shall be due upon completion of work, but must be received prior to any water or sewer service actually being provided.

(3) In circumstances where the customer seeking service has a limited, fixed income and can show that strict adherence to this schedule would create undue financial hardship, an alternate payment schedule may be developed upon approval by either the Council or staff. A request for this alternate method for payment must be made in writing to either the Council or staff, giving sufficient evidence of hardship and be only for the provision of service to a single-family dwelling which a single family resides. The town Clerk/Treasurer or Director of Public Works shall draw up a schedule of monthly payments. Failure by the customer to make payments according to the schedule will be considered sufficient grounds by the town to discontinue service. Decision by the Council or staff in these cases as to the existence of any financial hardship shall be final.

**§ 50.02 WATER AND SEWER RATE SCHEDULE.**

(A) *Availability fees.* Availability fees are one-time fees that are collected and used to offset capital expenditures (water filtration plant, pumps, motors, filters, tanks, hydrants, reservoir, all waste water filtration equipment, etc.). They do not include variable connection costs for materials or labor or specialty contracting services. Listed below are the fees. The sewer availability fee is equal to the total water availability fee.

(1) *Residential connections.* Residential Availability fees are as follows:

<i>Type of New Physical Service Connection/Water Only</i>	<i>Availability Fee</i>
Single-family dwelling (per dwelling)	\$600.00

<i>Type of New Physical Service Connection/Water Only</i>	<i>Availability Fee</i>
Duplex dwelling, 2-family building, separate water meter	\$300.00/unit
Multi-family dwellings (more than two units/separate meter): Condominiums, townhouses, apartments and the like, per unit	\$250.00/unit
Mobile homes: (only where existing mobile home exists) Single home, single lot	\$600.00
Mobile home park (per space) (existing mobile homes only)	\$250.00

(2) *Commercial and industrial rates.*

Business, Commercial, Industrial, Institutional/Water Only	\$600.00
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(B) *New account administrative fee.* There will be an administrative fee for establishing a new utility account (see Treasurer for current fee schedule). This fee shall be paid by a new customer requiring water or sewer service. This cost is charged to offset expenses to the town for inspecting the meter box, obtaining the initial meter reading, establishing a new billing account in the utility billing system and actually turning water service on. An administrative fee shall be assessed for transferring an account from one property to another property, or for switching an inactive account back to active, or for a prior account holder in good standing who needs to re-establish service in town (“good standing” means no delinquent water or sewer debts from prior service) (see Treasurer for current fee schedule).

To open a new account, the town requires current, valid, identification, and proof that the person wishing to open the new account is the person who will be living at the structure being served by the utility services (lease, deed, electric bill, internet, phone, cable bill etc.). In special and unique situations where the person living at the location being served by the utilities is not capable due to physical, financial, or mental limitations, a new account may be opened if an authorized person places the service in their own name and agrees to be designated as the responsible person managing the utility services account and is personally liable for all water account charges, fees, penalties, costs of collections.

No new account will be opened at any location in town, by any other person, when that same location already has an existing account. This is to prevent intent to defraud the town and is especially necessary when the existing account holder has a past due balance that has not been paid.

Additionally, no new account will be opened in the name of another person who is also a resident at the same location where an active water and/or sewer account already exists.

(C) *Reconnection fee.* A reconnection fee of not less than \$50.00 shall be paid by existing customers requiring water service reconnection, after service has been discontinued for nonpayment of the account.

(D) *Inactive account fee.*

(1) An inactive account fee shall be paid by the account owner to offset the cost of providing capacity which is not being utilized, meter maintenance, and maintenance of underground mainlines servicing the property. This charge is applicable for all utility services, water or sewer (see Treasurer for current fee schedule).

(2) An inactive account is an account which has remained unused for more than 4 months, no usage or consumption recorded at the meter. The town can place such accounts on the inactive list. The account holder will not be billed at the current minimum monthly water use charge, but will instead be charged the lesser inactive fee amount per month (see Treasurer). An account holder though may request to place their account on inactive status at any time for example an extended period of time when the account holder will not be occupying the structure.

### **§ 50.03 METERED RATES; WATER RATE SCHEDULE.**

Water service rates shall be periodically set by the Town Council, and shall be available for public inspection at the town office during regular business hours. (see Treasurer)

(1997 Code, § 70-33)

### **§ 50.04 METERED RATES; SEWER RATE SCHEDULE.**

(A) Sewer service rates shall be periodically set by the Town Council, and shall be available for public inspection at the town office during regular business hours. (see Treasurer)

(B) When connection involves only sewer service, the sewer rate shall be based upon the current minimum monthly sewer fee paid by all account holders. A deposit up to six months of sewer charges may be required prior to opening a sewer only account.

(C) If sewer bill is not paid when due and the account becomes delinquent, the Public Works Department is authorized to install a cap or plug in the wastewater/sewer discharge line at the main to prevent further discharge of waste into the public sewer system.

(1997 Code, § 70-34) (Ord. passed 8-17-1993)

### **§ 50.05 BILLING POLICY.**

Fees and charges for water and sewer services provided to a tenant or lessee of the property owner.

A. Notwithstanding any provision of law, general or special, the provisions of this section apply to any locality or authority, as such term is defined in § 15.2-5101.

B. The Town of Brookneal, when providing water or sewer services to a lessee or tenant of the property owner shall do so directly to the tenant 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 and

(ii) The Town shall use the lien rights afforded under subsection G of § 15.2-2119, collecting a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality or authority for five months of water and sewer charges.

When the property owner has provided the lessee or tenant with written authorization to obtain water and sewer services in the name of such lessee or tenant, nothing herein shall be construed to authorize the Town to require (a) the property owner to put water and sewer services in the name of such property owner, except in the case where a single meter serves multiple tenant units, or (b) a security deposit or a guarantee of payment from such property owner.

C. The property owner may open, or activate a new utility service account in their own name on behalf of the tenant if so desired so long as the property owner does not owe the town money for any other delinquent utility accounts also in the name of the property owner. If this election is made by the property owner (in order to help their tenant get utility services activated) and under their own volition as the case may be, the property owner becomes responsible for the costs of utility services.

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:

[Town of Brookneal Municipal Water and Sewer Service 215 Main St. Brookneal VA 24528]

RE: [INSERT FULL TENANT NAME AND ADDRESS]

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To Whom It May Concern:

[INSERT TENANT NAME] has entered into a lease for the property located at

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[INSERT ADDRESS]

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and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME]



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Signed:

PROPERTY OWNER: I hereby acknowledge the Town of Brookneal in accordance with local and state law has the power and authority to attach a lien to my real estate for up to three months delinquent water and/or sewer charges accrued by my tenant(s). I understand that if a lien is placed on my real estate, and after reasonable collection efforts have been undertaken, the Town of Brookneal may refuse water service to any subsequent tenant until all past due fees, charges, collection expenses etc. have been paid in full and the lien has been removed

D. 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, (First business day of each month), a penalty and interest shall be owed, as provided for by general law by the lessee or tenant and will be charged by the Treasurer to the account holder on the 15<sup>th</sup> calendar day of each month, or next business day if the 15<sup>th</sup> falls on a holiday or weekend.

If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days after the due date (the first day of each month), the locality, (Town of Brookneal), shall notify such lessee or tenant of the delinquency. A copy of the delinquency notice may also be communicated by appropriate means to the property owner.

This notice of delinquency shall also state the date of service termination should the outstanding amounts owed to the town not be paid by the service termination (cut-off date). This notice shall satisfy the ten business day requirement prior to service termination.

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 due date, the Town of Brookneal may cease supplying water and sewage disposal services (service will be termination/cut-off).

E. 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 set out herein, in addition to cessation of such service, the Town of Brookneal shall employ reasonable collection efforts and practices to collect amounts due from the lessee or tenant prior to sending written notice to, or taking any collection or legal action against, the property owner regarding the delinquency of payment of such lessee or tenant. Costs of collection up to 20 percent of the outstanding charges may be added to any unpaid amounts.

For the purposes of this section, "reasonable collection efforts and practices" include (i) applying the security deposit paid by the lessee or tenant to the payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program (§ 58.1-520 et seq.) or placing the account with a debt collection service.

F. Only after the Town has taken the reasonable collection efforts set forth in subsection E of § 15.2-2119 and practices to collect such fees and charges from the lessee or tenant may the Town 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 by using the lien recordation and release of lien processes as set out in § 15.2-2119 and only after notice to the property owner as

required in § 15.2-2119. Such a lien, up to three months of delinquent water and sewer charges, shall constitute a lien against the property ranking on a parity with liens for unpaid taxes.

G. 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. (Example: tenant fails to pay bill; town places lien on property; property owner pays tenant's outstanding bill; later the town through whatever collection activities are implemented does in fact collect from the tenant; the town must refund the property owner's money paid to cover the delinquent account)...(the town cannot collect twice on the same debt.)

H. Unless a lien has been recorded against the property owner, the locality or authority 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.

I. In addition, the Town 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 Town a request to be notified of a tenant's delinquent water or sewer bill and provides an email address, the Town shall send the property owner notice when a tenant's water or sewer bill has become 30 days delinquent.

J. The Town shall not require a security deposit 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 locality or authority a landlord authorization letter that has attached documentation showing that 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 authorized under this section. All other provisions of this section shall apply.

#### K. Service Disconnect

(A)

- (1) Payment in full for utility bills are due and must be received in the Treasurer's office by 5 p.m. on the cut-off day in order to be paid prior to cut-off.
- (2) At 5 p.m. on the cut-off day, town officials begin water cut-offs.
- (3) Town officials conducting cut-off duties are not obligated to accept payment of bills while out in the field.
- (4) If paying by mail, the check must be received in the town office before 5 p.m. on the cut-off date. The town will not accept postmarked mail containing utility payment checks after 5 p.m. on cut-off day.
- (5) If paying by online, or telephone payment system, your payment must be placed prior to 5 p.m. on the cut-off date. Any payments made after 5 p.m. are considered late and utility service will be terminated due to non-payment.

- (6) If service is terminated because of non-payment the account holder may visit the town office the following day, or any day the town office is open thereafter to take care of the matter.
- (7) Only town officials are authorized to access water meters to turn service on or off; any tampering with a meter is a criminal offense and will be prosecuted as outlined elsewhere in town code.

(B) Within 15 days from the issue date of the bill, if any account holder disputes the correctness of their bill, the account holder shall have a right to a timely hearing. When a hearing is scheduled, the account holder may be represented in person and by counsel or any other person of their choosing and may present orally or in writing their dispute to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's dispute.

Billing disputes shall not be for the purpose of requesting delays or waivers of payment; only questions or disputes related to proper and correct billing will be considered. In the absence of payment of the bill rendered or resorting to the hearing procedure provided herein to determine if a billing adjustment needs to be made, service will be discontinued at the time specified.

(C) When it becomes necessary for the town to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with the current reconnection fee, and the deposit must be restored to its full amount in cases where the town had to use deposit money to cover unpaid utility charges.

#### **§ 50.06 USE OF SERVICE AND BILLING DATE.**

New service applicants are expected to begin use of water within 30 days of the date from which the service is made available. Therefore, billing will commence at the end of this 30-day period in accordance with prescribed rates, terms and conditions set forth in this chapter and set forth in town ordinances.

(1997 Code, § 70-36) (Ord. passed 8-17-1993)

#### **§ 50.07 OUT-OF-TOWN RATES.**

This section is not applicable.

(1997 Code, § 70-37) (Ord. passed 8-17-1993)

#### **§ 50.08 CHARGES DUE AND PAYABLE UPON VACATION OF PREMISES.**

Whenever any premises are vacated, all water and sewer charges to date will be immediately due and payable by the account holder. The account holder must state the day for services to be terminated and must provide the town with a forwarding address for the sending of any final or outstanding charges. Unless the account holder is deceased, hospitalized, or some other rare and unique circumstance exists, the account holder is the only person authorized to terminate services

and no one else. If the account holder is not able to contact the town directly, and any other agent acting on behalf of the account holder intercedes, such intercessor shall provide properly authorized documentation stating the account holder has designated such intercessor as their duly appointed representative.

Documentation such as a notarized statement, power of attorney, estate executor, last will and testament, terminated lease agreement, etc. will be accepted. Utility services will not be terminated on any account based solely on hearsay. No new accounts will be established in another person's name until the current account has been properly closed as stated herein.

To reduce the occurrence of utilities fraud and uncollectable debts, service at rental property shall be activated in the name of only one person named on the lease. No new account will be established to place utility services in the name of another person who is also a resident at the same address as the account holder or in the name of another person who lives someplace else other than the service location.

(1997 Code, § 70-38) (Ord. passed 8-17-1993)

### **§ 50.09 RESPONSIBILITY FOR SEWER SERVICE CHARGES.**

When connection involves only sewer service to a house or to a building, and even if more than 1 family or tenant is served by the sewer connection, the property owner shall be responsible for payment of all charges for sewer service upon the rates set forth in this chapter.

(1997 Code, § 70-39) (Ord. passed 8-17-1993)

Water/Sewer bills are not pro-rated each month. For example; If a customer wants to terminate water service and not go into a new billing cycle, the customer must notify the town no later than the day of the month that water meters are read by town staff, usually on or about the 19<sup>th</sup> or 20<sup>th</sup> of each month.

Water billed on each months invoice is not for water used from the 1<sup>st</sup> day of each month to the last day of each month.

In order for the town to read, audit, verify, print and mail the water bills by the first day of each new month, the water meters must be ready usually ten days prior to the first day of each month. The ten days gives our administrative staff time to process all of the meter readings and calculate the billing amount for each customer.

In reality, when a customer pays their water bill for a 30/31 day consumption period, they are paying for water that was used between the 19<sup>th</sup> or 20<sup>th</sup> of the prior month, through the 19<sup>th</sup> or 20<sup>th</sup> of the current month. Example: Customer gets their water bill in the mail on or near September 1. The charges on that bill are actually from July 20<sup>th</sup> through August 20<sup>th</sup>.

If a tenant leaves their rental property for example on the last day of any given month, a final water bill will still be owed by the tenant because a new metering/billing cycle began back on or about the 20<sup>th</sup> day of the prior month.

When a tenant leaves at the end of a month, that means the tenant has already consumed water in a new billing period, usually about ten days of consumption (19<sup>th</sup> or 20<sup>th</sup> day of current month to the last day of the same month when tenants usually leave the rental property).

Since the town does not pro-rate water/sewer bills, the tenant even though they left the last day of the month, the tenant is still ten days into a new billing cycle and therefor the final bill is due and payable at the then current minimum monthly billing rate.

If water/sewer service is terminated because of non-payment, the security deposit will be applied to the amount owed to the Town.

The full amount of the initial deposit must be maintained by the account holder at all times.

If the bill is not paid for any amounts up to, or in excess of the deposit amount, the water/sewer service will not be restored until the required deposit is fully restored and any other outstanding balance plus penalties plus interest plus the reconnect fee have been paid.

All deposits are held from the date the account is activated, until the date the account is closed.

When an active account is properly closed any remaining deposit after past due bills, final bills, and/or any other charges have been paid in full, will be returned to the customer in the form of a town issued check within 30 days of account closure.

No interest is payable to account holders for required amounts held in deposit by the town.

## § 15.2-2119. Fees and charges for water and sewer services provided to a property owner.

A. For water and sewer services provided by localities, fees and charges may be charged to and collected from (i) any person contracting for the same; (ii) the owner who is the occupant of the property or where a single meter serves multiple units; (iii) a lessee or tenant in accordance with § 15.2-2119.4 with such fees and charges applicable for water and sewer services (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system; or (iv) any user of a municipality's water or sewer system with respect to combined sanitary and storm water sewer systems where the user is a resident of the municipality and the purpose of any such fee or charge is related to the control of combined sewer overflow discharges from such systems. Such fees and charges shall be practicable and equitable and payable as directed by the respective locality operating or providing for the operation of the water or sewer system.

B. Such fees and charges, being in the nature of use or service charges, shall, as nearly as the governing body deems practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the sewage disposal system, or any combination of such factors, or on such other basis as the governing body may determine. Such fees and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than

six months. The revenue derived from any or all of such fees and charges is hereby declared to be revenue of such sewage disposal system.

C. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions.

D. 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 for by general law, and the owner 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 provided or cease such disposal within 30 days thereafter, the locality or person supplying water or sewage disposal services for the use of such real estate shall notify such owner of the delinquency. If such owner 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 charged for water or sewage disposal services are due, the locality or person supplying water or sewage disposal services for the use of such real estate 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 locality or person supplying such services shall provide the owner with written notice of such cessation.

E. Such fees and charges, and any penalty and interest thereon, shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.

A lien may be placed on the property when the owner has 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. The lien may be in the amount of (i) up to the number of months of delinquent water or sewer charges when the water or sewer is, or both are, provided to the property owner; (ii) any applicable penalties and interest on such delinquent charges; and (iii) reasonable attorney fees and other costs of collection not exceeding 20 percent of such delinquent charges. In no case shall a lien for less than \$25 be placed against the property.

F. Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, that provides and operates sewer services outside its boundaries may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide sewer services to any other users outside its boundaries.

G. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate 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 real estate is located. The clerk shall make and index the entries in the clerk's official records for a fee of \$5 per entry, to be paid by the locality and added to the amount of the lien.

H. The lien on any real estate may be discharged by the payment to the locality of the total lien amount and the interest which has accrued to the date of the payment. The locality shall deliver a fully executed lien release substantially in the form set forth in this subsection to the person making the payment. The locality shall provide the fully executed lien release to the person who made payment within 10 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. For purposes of this section, a lien release of the water and sewer lien substantially in the form as follows shall be sufficient compliance with this section:

Prepared By and When

Recorded Return to:

Tax Parcel/GPIN Number:

CERTIFICATE OF RELEASE OF WATER AND SEWER SERVICE LIEN

Pursuant to Va. Code Annotated § 15.2-2119 (H), this release is exempt from recordation fees.

Date Lien Recorded: Instrument Deed Book No.:

Grantee for Index Purposes:

Claim Asserted: Delinquent water and sewer service charges in the amount of \$.

Description of Property: [Insert name of property owner and tax map parcel/GPIN Number]

The above-mentioned lien is hereby released.

BY:

TITLE:

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF , to-wit:

Acknowledged, subscribed, and sworn to before me this day of  
by as of the [Insert Water/Sewer  
Provider Name] on behalf of [Insert Water/Sewer Provider Name].

Notary Public

My commission expires:

Notary Registration Number:

Code 1950, § 15-739.2; 1950, p. 1611; 1962, c. 623, § 15.1-321; 1991, c. 476; 1994, c. 932; 1997, cc. 12, 587; 1998, c. 223; 2001, c. 13; 2005, c. 912; 2011, cc. 529, 580; 2012, c. 766; 2016, cc. 415, 528; 2017, c. 736.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## **APPROVAL OF AGENDA**

Upon motion by Mark Wilkes, seconded by Richard Adams, and unanimously carried, Council approved the agenda for the September 11, 2018, regular meeting of the Brookneal Town Council.

## **MINUTES**

Upon motion by Joseph David, seconded by Mark Wilkes, and unanimously carried, Council approved the minutes for the August 14, 2018 Town Council meeting.

## **TREASURER'S REPORT**

Vice Mayor Nowlin asked that the September 2018 treasurer's report be filed for audit.

## **PRESENTATION AND APPROVAL OF INVOICES**

Be it resolved that motion was made by Mark Wilkes, seconded by Barbara Laprade and unanimously carried, authorizing the payment of the invoices for the period of August 15, 2018 to September 11, 2018, in the amount of \$24,665.79.

## **MS. TONYA ADICHES, DENTAL DIRECTOR FOR THE COMMONWEALTH OF VIRGINIA, CONCERNING FLUORIDE USE IN THE TOWN WATER**

Ms. Tonya Adiches appeared before Council to share some information on community water fluoridation. She said that there is a lot of information on the web about community water fluoridation both positive and negative. Some of the points she shared included:

- Fluoridation is not just predicated on one study. They look at a lot of information from public health regions.
- Fluoride was first endorsed by the Virginia State Board of Health in 1951.
- 5.8 million Virginians consume water that has been adjusted with fluoride to the optimal level. She said they like to fluoridate at .70 milligrams per liter.
- Community water fluoridation is still the most effective means of reducing tooth decay and can result in up to 40% reduction in dental decay. It has been proven in



communities a little larger than Brookneal that for every \$1 spent on community water fluoridation, \$38 in treatment costs are saved.

- Water fluoridation benefits everyone regardless of age, income level, or insurance status. It is a public health initiative. It has been cited as one of the 10 great public health achievements of the 20<sup>th</sup> century by the Centers for Disease Control.
- The Board of Health recommends that all public water systems in Virginia be optimally fluoridated as water fluoridation is the most effective public health measure to prevent tooth decay.

She said that she looked back in the files for Brookneal, and Brookneal received several grants for equipment as well as chemicals. She said they are very invested in fluoridation in this community, and there are grant funds that are available to assist Brookneal. She said they have offered in the past to provide the split sample testing that has to be sent off to the lab and they would provide that again.

#### **DR. WILLIAM DRAKE CONCERNING FLUORIDE IN THE WATER**

Dr. William Drake, Brookneal dentist, appeared before Council to support fluoride in the Town water supply. He noted in answering a question from Councilperson David that an adult doesn't get as much benefit from fluoride as a child does. He said fluoride is only supplemented to a certain age; there are no fluoride supplements for adults. Dr. Fisher said that fluoride helps the surface of the teeth in adults. He said that if you can keep children's teeth without decay and they don't have to have fillings, then as they get to be adults, there will be a better result into adulthood.

Dr. Drake said that the American Medical Association, the American Council on Pediatrics, and the American Dental Association all recommend fluoride in the water. He talked about fluoride toxicity. He said that a 150 lb. adult would have to drink 7 1/2 gallons of water to achieve fluoride toxicity. Councilperson David expressed concerns on the water plant operator handling the fluoride. Dr. Drake said that he has read no information to suggest that fluoride would be absorbed through the skin. Ms. Adiches said that there are free training classes offered annually for those individuals that handle fluoride that teach them all about safety and how to handle fluoride.

#### **DR. RICHARD FISHER CONCERNING FLUORIDE IN THE WATER**

Dr. Richard Fisher appeared before Council to support fluoride in the Town water supply. He said fluoride makes the teeth stronger and helps to prevent cavities. He said he wants to see that the best dental care and health care are provided in the Town.

#### **PUBLIC WORKS REPORT**

Mike Crews, Public Works Director, noted that on the fluoride issue, the cost of the fluoride itself runs \$1.02 per pound, so a 50 lb. bag runs about \$50.00.

Mr. Crews noted that his department is prepared for the coming hurricane. They have made the necessary preparations making sure everything is fueled and all drains and ditches of concern are clear or will be cleared in the next few days.

## **POLICE REPORT**

Police Chief Richard Baldwin presented the police report for August 2018. He said of the 56 calls for service, 44 were answered by the Brookneal Police Department.

## **TOWN MANAGER REPORT**

Town Manager Russell Thurston said that last week he talked to the real estate company that is working with the dialysis company, and they are still looking a site for their facility in Brookneal.

He said that he and Councilperson Jean talked about the vacant lots that are overgrown down on Cook Avenue. He said someone is looking at purchasing those lots. They are adjacent to Mr. John Vincent's property, and he was at a Council meeting in the summer complaining about the condition of those lots.

He said that the County has filled the vacancy created by Stan Goldsmith when he resigned from the County Board of Supervisors this summer; however, he doesn't know the individual.

He said that at the last Council meeting, the Council voted to allow him to finalize the contract with Mid-Atlantic Broadband (SCS Broadband) to put their equipment on the water tower so they can provide wireless broadband internet. He said he did a legal review over that agreement and made a few changes to protect the Town of Brookneal.

## **MOTION TO APPROVE A CHARTER CHANGE FOR THE LOCAL GOVERNMENT COUNCIL CHANGING THEIR NAME TO THE CENTRAL VIRGINIA PLANNING DISTRICT COMMISSION**

Upon motion by Joseph David, seconded by Mark Wilkes, and unanimously carried, the Council voted to approve the charter change for the Local Government Council changing their name to the Central Virginia Planning District Commission.

## **ITEMS FROM TOWN COUNCIL**

Councilperson Laprade said that on August 17, 2018, she, Mike Davidson, Megan Lucas of the Lynchburg Business Alliance, Mr. Thurston and Vice Mayor Nowlin met to discuss the Brookneal motel project. She said that the group discussed the feasibility study that would be required by potential investors before investing. She said that after communication back and forth with the Cobblestone Group (a hotel franchise); she said they needed find out if a feasibility study would indeed be necessary because it could be between \$8,000-\$10,000 or more. She said that Mike Davidson indicates that it is necessary. She said he suggested reaching out to Gary Christie about funding for such a grant. She said Gary Christie is consulting with his colleagues about potential funding avenues. She said they also mentioned the block re-development grant which might involve existing properties. She said she discussed

with Mr. Thurston about approaching some existing property owners to find out square footage of the buildings or even if they would be interested in selling those properties. She said they are still waiting on that information. She said Region 2000 mentioned that some of these grant applications might have a question about whether the Town would be willing to match the funds for a feasibility study. She said that she was contacted by Myra Trent from Red Hill, and they have asked to be included in any conversations about a hotel for Brookneal. She said they have a need for lodging with their new conference center that is under construction. She said that there are 3 or 4 potential investors that want to be included in the project also. Councilperson David said that he did not see the Town putting any money into this study.

The question was posed by Mr. Crews if the project is going to be pursued either way, why pay for a feasibility study? Ms. Laprade said that you need a plan, and you have to start somewhere. Councilperson Adams noted (pertaining to the cost of the feasibility study) that anybody that didn't participate in budget preparation in the last couple of years doesn't know how tight the Town budget is, and how the budget committee had to cut and carve to get enough to cover the necessary expenses for the everyday operation of the Town. He said to take on new projects; you would have to go back to the drawing board, money is the problem. He would not commit to funding from the Town. Councilperson Laprade said that that answered her question about the funding.

Councilperson Wilkes said that International Paper donated 45 chairs to the Town of Brookneal. Mr. Thurston noted that the chairs in the dining room that the Council is using tonight were donated by the Brookneal Woman's Club along with some other clubs and organizations that donated to their cause.

## **ADJOURNMENT**

Upon motion by Mark Wilkes, seconded by Robert Jean, and unanimously carried, Mayor Campbell announced that September 11, 2018 Council meeting was adjourned.

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Bobbie A. Waller  
Clerk/Treasurer

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Phyllis Campbell  
Mayor