

INTRODUCED: May 8, 2017

AN ORDINANCE No. 2017-098

To amend and reordain City Code § 28-54, concerning deposits and refunds on gas and water utilities accounts, for the purpose of complying with Va. Code § 15.2-2119.4(J).

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: MAY 22 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 28-54 of the Code of the City of Richmond (2015) be and is hereby **amended** and reordained as follows:

**Sec. 28-54. Deposit; refund when account satisfactory.**

[The] Except as otherwise provided by the Code of Virginia, title 15.2, ch. 21, art. 2, the Director may require a deposit in advance by any owner, occupant or consumer of an amount deemed adequate to secure the payment of sums that may become due on account of gas or water, or both, used, consumed or wasted, provided that the Director may refund the deposit so made to every customer who is not in default in the payment of charges for gas or water consumed and

AYES:            9            NOES:            0            ABSTAIN:            \_\_\_\_\_

ADOPTED:   MAY 22 2017   REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

whose payment record for gas and water consumed has been good for a period of one year or more or to each customer with less than one year's service who requests that the customer's service be finalized. The Director is authorized to pay interest on all gas and water customer deposits. The rate shall be set by the Director on July 1 of each fiscal year and shall be determined by dividing the actual interest income earned on utilities operating cash by average utilities operating cash for the preceding fiscal year, provided that in no event shall interest paid on deposits exceed eight percent. The rate in effect when the deposit is refunded shall be the rate used to compute the amount of interest paid to the customer for the entire term that the City held the deposit. Interest will not be allowed for deposits held less than six months. If at any time satisfactory payment record is not maintained by any customer using gas or water, the Director may again require such deposit, and the Director may refuse such service until the account is brought to a current status and the deposit is again made.

§ 2. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

Received

MAY 3 2017
4-6510
Office of the
Chief Administrative Officer

O&R REQUEST

DATE: April 30, 2017 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Lenora Reid, Deputy Chief Administrative Officer

THROUGH: John Wack, Director of Finance, Department of Finance

THROUGH: Robert C. Steidel, Director, Department of Public Utilities

FROM: Mark A. McClain, Customer Service Administrator, Department of Public Utilities

RE: Amendment to City Code Section 28-54 - Deposit; refund when account satisfactory

ORD. OR RES. No. \_\_\_\_\_

PURPOSE: To amend City Code Section 28-54 to comply with Code of Virginia Section 15.2-2119.4(J).

REASON: Unless amended, City Code Section 28-54 will become out of compliance with Code of Virginia Section 15.2-2119.4(J) which becomes effective July 1, 2017.

RECOMMENDATION: Amend City Code Section 28-54 to comply with Code of Virginia Section 15.2-2119.4(J).

BACKGROUND: The General Assembly of the Commonwealth of Virginia enacted legislation during the 2017 legislative session through Senate Bill (SB) 1189 amending and reenacting Sections 15.2-2119, 15.2-2119.1, 15.2-2122, and 15.2-5139 of the Code of Virginia and amending the Code of Virginia by adding Section 15.2-2119.4. The legislation relates to water and sewer fees and charges, and water and sewer liens. Section 15.2-2119.4, among other things, addresses

Handwritten signatures and stamps including 'RECEIVED', 'MAY 04 2017', and 'OFFICE OF CITY ATTORNEY'.

a locality's ability to pursue a tenant's or lessee's debt for unpaid water and sewer services through placing a lien on the property of the landlord. Section 15.2-2119.4(J), when it becomes effective, will prohibit localities, including Richmond, from requiring a security deposit from a lessee or tenant to obtain water and sewer services in the name of such lessee or tenant if the lessee or tenant presents to the locality a landlord authorization letter that has attached documentation showing that such lessee or tenant receives need-based local, state, or federal rental assistance.

Currently, City Code Section 28-54 provides that the Director (of Public Utilities) may require a deposit from any owner, occupant, or consumer. Consequently, City Code Section 28-54 should be amended to reflect the new restriction reflected in Section 15.2-2119.4(J), and to make clear that the Director's authority set forth in City Code Section 28-54 to require a deposit from any owner, occupant, or consumer may be limited by the Code of Virginia.

**FISCAL IMPACT / COST:** Unknown. The City does not differentiate for water and sewer services which tenants or lessees receive needs-based rental assistance in order to analyze and forecast the impact Section 15.2-2119.4(J) will have on uncollectible accounts expense for these utility services.

**FISCAL IMPLICATIONS:** Uncollectible accounts expense may increase if there is no security deposit available to offset unpaid water and sewer services from a tenant or lessee who has defaulted on their payment obligation for these services. The materiality of this implication is unknown.

**BUDGET AMENDMENT NECESSARY:** None

**REVENUE TO CITY:** None

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** May 8, 2017

**CITY COUNCIL PUBLIC HEARING DATE:** May 22, 2017

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Finance

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None

**AFFECTED AGENCIES:** Department of Public Utilities; Department of Finance

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

O&R Request Amendment City Code Section 28-54

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**ATTACHMENTS:** Senate Bill 1189; City Code Section 28-54

**STAFF:** Mark McClain, Customer Service Administrator, Department of Public Utilities

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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 15.2-2119, 15.2-2119.1, 15.2-2122, and 15.2-5139 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2119.4, relating to water and sewer liens; lessee or tenant.

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Approved

[S 1189]

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Be it enacted by the General Assembly of Virginia:

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1. That §§ 15.2-2119, 15.2-2119.1, 15.2-2122, and 15.2-5139 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2119.4 as follows:

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

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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, provided that the lessee or tenant has written authorization from the owner of the property to obtain water and sewer services in the name of such 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. A locality providing water and sewer services may establish, by adoption of a resolution, that water and sewer services may be provided to a lessee or tenant pursuant to provision (iii) without obtaining an authorization form from the property owner. For purposes of this section, a written or electronic authorization from the owner of the property to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows shall be sufficient compliance with this section:

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DATE

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

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RE: [INSERT FULL TENANT NAME AND ADDRESS]

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To Whom It May Concern:

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[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].

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

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PROPERTY OWNER

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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

57 declared to be revenue of such sewage disposal system.

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

62 D. If the fees and charges charged for water service or the use and services of the sewage disposal  
63 system by or in connection with any real estate are not paid when due, a penalty and interest shall at  
64 that time be owed as provided for by general law, and the owner, lessee, or tenant, as the case may be,  
65 of such real estate shall, until such fees and charges are paid with such penalty and interest to the date  
66 of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by  
67 discharge thereof directly or indirectly into the sewage disposal system. If such owner, lessee, or tenant  
68 does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal  
69 within 30 days thereafter, the locality or person supplying water or sewage disposal services for the use  
70 of such real estate shall notify such owner, lessee, or tenant of the delinquency. If such owner, lessee, or  
71 tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such  
72 disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal  
73 services are due, the locality or person supplying water or sewage disposal services for the use of such  
74 real estate may cease supplying water and sewage disposal services thereto unless the health officers  
75 certify that shutting off the water will endanger the health of the occupants of the premises or the health  
76 of others. At least ten 10 business days prior to ceasing the supply of water or sewage disposal services,  
77 the locality or person supplying such services shall provide the owner, lessee, or tenant with written  
78 notice of such cessation.

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

81 A lien may be placed on the property when the owner has been advised in writing that a lien may  
82 be placed upon the property if the owner fails to pay any delinquent water and sewer charges. Such  
83 written notice shall be provided at least 30 days in advance of recordation of any lien with a copy of  
84 the bill for delinquent water and sewer charges to allow the property owner a reasonable opportunity to  
85 pay the amount of the outstanding balance and avoid the recordation of a lien against the property. The  
86 lien may be in the amount of (i) up to three months of delinquent water and sewer charges when the  
87 water or sewer is, or both are, supplied to a lessee or tenant pursuant to this section; (ii) when the water  
88 or sewer is, or both are, provided to the property owner, up to the number of months of delinquent  
89 water or sewer charges; (iii) when the water or sewer is, or both are, provided to the property owner;  
90 (ii) any applicable penalties and interest on such delinquent charges; and (iv) (iii) reasonable attorney  
91 fees and other costs of collection not exceeding 20 percent of such delinquent charges. In no case shall  
92 a lien for less than \$25 be placed against the property. In the case of services to a lessee or tenant, if  
93 the locality does not cease supplying water to the lessee or tenant within 60 days after the bill becomes  
94 delinquent, unless water is required to be provided pursuant to subsection D or other applicable law,  
95 there shall be no lien placed on the property for charges and collection costs beyond the 60-day period  
96 and no recourse against the property owner for service beyond the 60-day period.

97 F. Unless the locality has adopted a resolution to not require authorization from land owners for  
98 water and sewer service provided to lessees or tenants pursuant to subsection A, a lien may be placed  
99 on the property for water and sewer services used by a lessee or tenant only if the locality has (i)  
100 advised the owner of the property in writing that a lien may be placed on the property if the lessee or  
101 tenant owner fails to pay any delinquent water and sewer charges; (ii) mailed by first-class mail to the  
102 owner of the property, or sent electronically if requested by the owner, at the address listed in the  
103 written authorization from the owner of the property (or such other address as the owner may provide);  
104 a duplicate copy of the final bill sent to the lessee or tenant at the time of sending the final bill to such  
105 lessee or tenant; (iii) collected a security deposit from the lessee or tenant as reasonably determined by  
106 the locality to be sufficient to collateralize the locality for not less than three and no more than five  
107 months of water and sewer charges; (iv) applied the security deposit held by the locality to the payment  
108 of the outstanding balance; (v) employed reasonable collection efforts and practices to collect amounts  
109 due from a lessee or a tenant including filing for the Set-Off Debt Collection Program if the locality is a  
110 participant; and (vi) (iii) provided the property owner with 30 days' written notice with a copy of the  
111 final bill to allow the property owner a reasonable opportunity to pay the amount of any outstanding  
112 balance and avoid the recordation of a lien against the property. If the property owner fails to pay the  
113 amount of the outstanding balance within the 30-day period, the locality may record a lien in the  
114 amount of the outstanding balance against the property owner. Upon payment of the outstanding  
115 balance, or any portion thereof, or of any amounts of such fees and charges owed by the former tenant,  
116 the property owner shall be entitled to receive any refunds and shall be subrogated against the former  
117 tenant in place of the locality in the amount paid by the property owner. The locality shall execute all

118 documents necessary to perfect such subrogation in favor of the property owner.

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

124 H. The locality shall not require a security deposit from the lessee or tenant to obtain water and  
125 sewer services in the name of such lessee or tenant if such lessee or tenant presents to the locality a  
126 landlord authorization letter which has attached documentation showing such lessee or tenant receives  
127 need-based local, state, or federal rental assistance, and the absence of a security deposit shall not  
128 prevent a locality from exercising its lien rights as authorized under subsection F.

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

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

142 K. G. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for  
143 valuable consideration without actual notice of the lien until the amount of such delinquent charges is  
144 entered in the official records of the office of the clerk of the circuit court in the jurisdiction in which  
145 the real estate is located. The clerk shall make and index the entries in the clerk's official records for a  
146 fee of \$5 per entry, to be paid by the locality and added to the amount of the lien.

147 L. H. The lien on any real estate may be discharged by the payment to the locality of the total lien  
148 amount and the interest which has accrued to the date of the payment. The locality shall deliver a fully  
149 executed lien release substantially in the form set forth in this subsection to the person making the  
150 payment. The locality shall provide the fully executed lien release to the person who made payment  
151 within 10 business days of such payment if the person who made such payment did not personally  
152 appear at the time of such payment. Upon presentation of such lien release, the clerk shall mark the lien  
153 satisfied. There shall be no separate clerk's fee for such lien release. For purposes of this section, a lien  
154 release of the water and sewer lien substantially in the form as follows shall be sufficient compliance  
155 with this section:

156 Prepared By and When  
157 Recorded Return to:

158 \_\_\_\_\_  
159 \_\_\_\_\_  
160 \_\_\_\_\_

161 Tax Parcel/GPIN Number: \_\_\_\_\_

162 CERTIFICATE OF RELEASE OF WATER AND SEWER SERVICE LIEN

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

164 Date Lien Recorded: \_\_\_\_\_ Instrument Deed Book No.: \_\_\_\_\_

165 Grantee for Index Purposes: \_\_\_\_\_

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

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

168 The above-mentioned lien is hereby released.

169 BY: \_\_\_\_\_

170 TITLE: \_\_\_\_\_

171 COMMONWEALTH OF VIRGINIA

172 CITY/COUNTY OF \_\_\_\_\_, to-wit:

173 Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

174 by \_\_\_\_\_ as \_\_\_\_\_ of the [Insert Water/Sewer Provider Name],  
175 on behalf of [Insert Water/Sewer Provider Name].

176 \_\_\_\_\_  
177 Notary Public

178 My commission expires: \_\_\_\_\_



179 Notary Registration Number: \_\_\_\_\_

180 § 15.2-2119.1. Credit for excessive water and sewer charges.

181 A locality or authority, as such term is defined in § 15.2-5101, may provide a partial credit for  
182 excessive water and sewer charges where high water usage is caused by damaged pipes, leaks, accidents,  
183 or other intentional or unintentional causes.

184 § 15.2-2119.4. Fees and charges for water and sewer services provided to a tenant or lessee of the  
185 property owner.

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

188 B. A locality or authority providing water or sewer services to a lessee or tenant of the property  
189 owner shall do so directly to the tenant after (i) obtaining from the property owner a written or  
190 electronic authorization to obtain water and sewer services in the name of such lessee or tenant and (ii)  
191 if the locality or authority decides to use the lien rights afforded under subsection G of § 15.2-2119,  
192 collecting a security deposit from the lessee or tenant as reasonably determined by the locality to be  
193 sufficient to collateralize the locality or authority for not less than three and no more than five months  
194 of water and sewer charges. When the property owner has provided the lessee or tenant with written  
195 authorization from the property owner to obtain water and sewer services in the name of such lessee or  
196 tenant, nothing herein shall be construed to authorize the locality or authority to require (a) the  
197 property owner to put water and sewer services in the name of such property owner, except in the case  
198 where a single meter serves multiple tenant units, or (b) a security deposit or a guarantee of payment  
199 from such property owner. The property owner, lessee, or tenant may provide a copy of the lease or  
200 rental agreement to the locality or authority in lieu of the written authorization.

201 C. For purposes of this section, a written or electronic authorization from the property owner to  
202 obtain water and sewer services in the name of such lessee or tenant substantially in the form as  
203 follows, or a copy of the lease or rental agreement, shall be sufficient compliance with this section:

204 DATE  
205 [INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

206 \_\_\_\_\_  
207 \_\_\_\_\_

208  
209 RE: [INSERT FULL TENANT NAME AND ADDRESS]

210 \_\_\_\_\_  
211 \_\_\_\_\_

212  
213 To Whom It May Concern:  
214 [INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS]  
215 and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER  
216 NAME].

217 Signed: \_\_\_\_\_  
218 PROPERTY OWNER

219 D. If the fees and charges charged for water service or the use and services of the sewage disposal  
220 system by or in connection with any real estate are not paid when due, a penalty and interest shall be  
221 owed, as provided for by general law, by the lessee or tenant. If such lessee or tenant does not pay the  
222 full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days  
223 thereafter, the locality or authority supplying water or sewage disposal services for the use of such real  
224 estate shall notify such lessee or tenant of the delinquency. If such lessee or tenant does not pay the full  
225 amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after  
226 the delinquent fees and charges charged for water or sewage disposal services are due, the locality or  
227 authority supplying water or sewage disposal services for the use of such real estate may cease  
228 supplying water and sewage disposal services thereto unless the health officers certify that shutting off  
229 the water will endanger the health of the occupants of the premises or the health of others. At least 10  
230 business days prior to ceasing the supply of water or sewage disposal services, the locality or authority  
231 supplying such services shall provide the lessee or tenant with written notice of such cessation, with a  
232 copy to the property owner.

233 E. If the lessee or tenant does not pay the full amount of charges, penalty, and interest for water or  
234 the use and services of the sewage disposal system in a timely manner as set out herein, in addition to  
235 cessation of such service, the locality or authority shall employ reasonable collection efforts and  
236 practices to collect amounts due from the lessee or tenant prior to sending written notice to, or taking  
237 any collection or legal action against, the property owner regarding the delinquency of payment of such  
238 lessee or tenant. For the purposes of this section, "reasonable collection efforts and practices" include  
239 (i) applying the security deposit paid by the lessee or tenant held by the locality or authority to the

240 payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program  
241 (§ 58.1-520 et seq.) or placing the account with a debt collection service.

242 F. Only after the locality or service authority has taken the reasonable collection efforts set forth in  
243 subsection E of § 15.2-2119 and practices to collect such fees and charges from the lessee or tenant  
244 may the locality or service authority proceed to notify the property owner of such outstanding lien  
245 obligation of such lessee or tenant and thereafter to record a lien against the property owner by using  
246 the lien recordation and release of lien processes as set out in § 15.2-2119 and only after notice to the  
247 property owner as required in § 15.2-2119. Such a lien, up to three months of delinquent water and  
248 sewer charges, shall constitute a lien against the property ranking on a parity with liens for unpaid  
249 taxes.

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

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

264 I. When a locality or authority does not require a lessee or tenant to pay a security deposit to the  
265 locality or authority as a condition precedent to turning on water or sewer services in the name of the  
266 lessee or tenant, such locality or authority shall waive its lien rights against the property owner. All  
267 other provisions of this section shall apply.

268 J. The locality or authority shall not require a security deposit from the lessee or tenant to obtain  
269 water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the  
270 locality or authority a landlord authorization letter that has attached documentation showing that such  
271 lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a  
272 security deposit shall not prevent a locality from exercising its lien rights as authorized under this  
273 section. All other provisions of this section shall apply.

274 § 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.

275 For the purpose of providing relief from pollution, and for the improvement of conditions affecting  
276 the public health, and in addition to other powers conferred by law, any locality shall have power and  
277 authority to:

278 1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the  
279 necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and  
280 other plants, structures, boats, conveyances and other real and personal property necessary for the  
281 operation of such system, subject to the approvals required by § 62.1-44.19.

282 2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or  
283 convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system  
284 and the property, in whole or in part, of any private or public service corporation operating a sewage  
285 disposal system or chartered for the purpose of acquiring or operating such a system, including its lands,  
286 plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts,  
287 easements, rights and franchises, including its franchise to be a corporation, and have the right to  
288 dispose of property so acquired no longer necessary for the use of such system. However, any locality  
289 condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate  
290 rates, to the customers of any corporation whose property is condemned.

291 3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage  
292 disposal system and to issue bonds therefor in the name of the locality.

293 4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the  
294 establishment and operation of such sewage disposal system and make and perform such agreements or  
295 contracts as may be necessary or convenient in connection with the procuring or acceptance of such  
296 gifts or grants.

297 5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings  
298 and examinations for constructing and operating the sewage disposal system, and for the prevention of  
299 pollution.

300 6. Enter into contracts with the United States of America, or any department or agency thereof, or

301 any person, firm or corporation, or the governing body of any other locality, providing for or relating to  
302 the treatment and disposal of sewage and industrial wastes.

303 7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal  
304 system; and, except in counties which are not otherwise authorized, require the connection of premises  
305 with facilities provided for sewage disposal services. Water and sewer connection fees established by  
306 any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and  
307 shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein  
308 shall affect existing contracts with bondholders which are in conflict with any of the foregoing  
309 provisions.

310 8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the  
311 sewage disposal systems authorized to be established, constructed, improved or enlarged by this section,  
312 in advance of putting such systems in operation.

313 9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and  
314 storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and  
315 collected in accordance with and subject to the provisions of §§ 15.2-2119 through 15.2-2119.4.

316 10. Establish standards for the use and services of sanitary, combined and stormwater sewer systems,  
317 treatment works and appurtenances operated and maintained by any locality, including but not limited to  
318 implementation of applicable pretreatment requirements pursuant to the State Water Control Law  
319 (§ 62.1-44.2 et seq.) and the federal Clean Water Act (33 U.S.C. § 1251 et seq.). Such sewer use  
320 standards may be implemented by ordinance, regulation, permit or contract of the locality or of the  
321 wastewater authority or sanitation district, where applicable, and violations thereof may be enforced by  
322 the same subject to the following conditions and limitations:

323 a. No order assessing a civil penalty for a violation shall be issued until after the user has been  
324 provided an opportunity for a hearing, except with the consent of the user. The notice of the hearing  
325 shall be served personally or by registered or certified mail, return receipt requested, on any authorized  
326 representative of the user at least 30 days prior to the hearing. The notice shall specify the time and  
327 place for the hearing, facts and legal requirements related to the alleged violation, and the amount of  
328 any proposed penalty. At the hearing the user may present evidence including witnesses regarding the  
329 occurrence of the alleged violation and the amount of the penalty, and the user may examine any  
330 witnesses for the locality. A verbatim record of the hearing shall be made. Within 30 days after the  
331 conclusion of the hearing, the locality shall make findings of fact and conclusions of law and issue the  
332 order.

333 b. No order issued by the locality shall assess civil penalties in excess of the maximum amounts  
334 established in subdivision (8a) of § 62.1-44.15, except with the consent of the user. The actual amount  
335 of any penalty assessed shall be based upon the severity of the violations, the extent of any potential or  
336 actual environmental harm or facility damage, the compliance history of the user, any economic benefit  
337 realized from the noncompliance, and the ability of the user to pay the penalty, provided, however, that  
338 in accordance with subdivision 10 d, a locality may establish a uniform schedule of civil penalties for  
339 specified types of violations. In addition to civil penalties, the order may include a monetary assessment  
340 for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other  
341 expenses resulting from the violation. Civil penalties in excess of the maximum amounts established in  
342 subdivision (8a) of § 62.1-44.15 may be imposed only by a court in amounts determined in its discretion  
343 but not to exceed the maximum amounts established in § 62.1-44.32.

344 c. Any order issued by the locality, whether or not such order assesses a civil penalty, shall inform  
345 the user of his right to seek reconsideration or review within the locality, if authorized, and of his right  
346 to judicial review of any final order by appeal to circuit court on the record of proceedings before the  
347 locality. To commence an appeal, the user shall file a petition in circuit court within 30 days of the date  
348 of the order, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters  
349 of law, the burden shall be on the party seeking review to designate and demonstrate an error of law  
350 subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to  
351 ascertaining whether there was substantial evidence in the record to reasonably support such findings.

352 d. In addition, a locality may, by ordinance, establish a uniform schedule of civil penalties for  
353 violations of fats, oils, and grease standards; infiltration and inflow standards; and other specified  
354 provisions of any ordinance (other than industrial pretreatment requirements of the State Water Control  
355 Law (§ 62.1-44.2 et seq.) or federal Clean Water Act (33 U.S.C. § 1251 et seq.). The schedule of civil  
356 penalties shall be uniform for each type of specified violation, and the penalty for any one violation  
357 shall be a civil penalty of not more than \$100 for the initial summons, not more than \$150 for each  
358 additional summons and not more than a total amount of \$3,000 for a series of specified violations  
359 arising from the same operative set of facts. The locality may issue a civil summons ticket for a  
360 scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an  
361 appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for trial

362 in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty  
363 established for the offense charged. If a person charged with a scheduled violation does not elect to  
364 enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the  
365 same manner and with the same right of appeal as provided for by law. In any such trial, the locality  
366 shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator.  
367 An admission of liability or finding of liability under this section shall not be deemed an admission at a  
368 criminal proceeding, and no civil action authorized by this section shall proceed while a criminal action  
369 is pending.

370 e. This subdivision shall neither preclude a locality from proceeding directly in circuit court to  
371 compel compliance with its sewer use standards or seek civil penalties for violation of the same nor be  
372 interpreted as limiting any otherwise applicable legal remedies or sanctions. Each day during which a  
373 violation is found to have existed shall constitute a separate violation, and any civil penalties imposed  
374 under this subdivision shall be applied to the purpose of abating, preventing or mitigating environmental  
375 pollution.

376 f. For purposes of enforcement of standards established under this subdivision, "locality" shall mean  
377 the locality's director of public utilities or other designee of the locality with responsibility for  
378 administering and enforcing sewer use standards or, in the case of a wastewater authority or sanitation  
379 district, its chief executive.

380 § 15.2-5139. Lien for charges.

381 An authority may place a lien upon the real property of an owner only in the same manner provided  
382 by § 15.2-2119, and such lien may only be processed, recorded, and released in accordance therewith.  
383 *An authority may only provide services to lessees or tenants of property owners in accordance with*  
384 *§ 15.2-2119.4.*

385 An authority may contract with a locality to collect amounts due on properly recorded utility liens in  
386 the same manner as unpaid real estate taxes due the locality.

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