

INTRODUCED: May 23, 2016

AN ORDINANCE No. 2016-166

To amend City Code § 28-57, concerning disconnection of gas, water and wastewater service for nonpayment of service charges, for the purpose of reflecting amendments to Va. Code § 15.2-2119.

Patron – Mayor Jones

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUNE 27 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 28-57 of the Code of the City of Richmond (2015) be and hereby is **amended** as follows:

Sec. 28-57. Disconnection for nonpayment; notice.

(a) When a bill for gas [~~water or wastewater~~] service charges [~~or any combination or any portion thereof,~~] other than for individual residential gas service billed under the RS rate schedule as specifically provided, remains unpaid for at least 30 days after the date appearing on the bill, the supply of gas [~~water, or both,~~] may be stopped to the premises in respect to which the default exists, so long as the premises are occupied by the owner,

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JUNE 27 2016 REJECTED: _____ STRICKEN: _____

occupant or consumer who is in default on account of nonpayment of any such bill or so long as the owner who is liable therefore is in such default, and the Director may proceed to collect the bill or portion thereof in any manner or by any process allowed by law. However, in no case shall the supply of gas~~[, water and wastewater service or any combination]~~ be stopped or proceedings be taken to collect the bill until ten days after a written notice has been mailed to the owner, occupant or consumer who is in default on account of nonpayment of any such bill. The Director may refuse to provide or may discontinue gas~~[, water or wastewater]~~ service ~~[or any combination]~~ to any premises, other than for individual gas service billed under the RS rate schedule as specifically provided, until all indebtedness is paid in full or secured to the satisfaction of the Director.

(b) When a bill for ~~[individual residential]~~ water service or wastewater service or any portion thereof remains unpaid for at least ~~[30]~~ 60 days after the date appearing on such bill ~~[and such service is provided solely for individual residential service]~~, the supply of water service or wastewater service, or both, may be stopped to such ~~[individual residential]~~ premises in respect to which such default exists, so long as such premises are occupied by the owner, occupant or consumer who is in default on account of nonpayment of any such bill, and the Director may proceed to collect the bill or portion thereof in any manner or by any process allowed by law. However, in no case shall the supply of water service or wastewater service, or both, be stopped or proceedings be taken to collect the bill until ten days after a written notice has been mailed to the owner, occupant or consumer who is in default on account of nonpayment of any such bill. The Director may refuse to provide or may discontinue water service or wastewater service, or both, to any other premises of the owner,

occupant, or consumer who is in default until all indebtedness is paid in full or secured to the satisfaction of the Director.

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



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

4-5118
O & R REQUEST

APR 28 2016

Chief Administration Office
City of Richmond

O&R REQUEST

DATE: 4/27/2016

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: John J. Buturla, Deputy Chief Administrative Officer, Operations

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

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

RE: Amendment of City Code Section 28-57 Disconnection for nonpayment; notice

ORD. OR RES. No. _____

EDITION: 1
RECEIVED

MAY 16 2016

OFFICE OF CITY ATTORNEY

PURPOSE: To amend City Code Section 28-57, Disconnection for nonpayment; notice, to make the section consistent with an amendment to Virginia Code Section 15.2-2119, Fees and charges for water and sewer services, enacted by the General Assembly of Virginia through House Bill 919, which will become effective July 1, 2016. The proposed ordinance also would eliminate some duplicative wording currently in City Code Section 28-57 by removing current references to water and wastewater service from Section 28-57(a), so that Section 28-57(a) would address gas service only, and Section 28-57(b) would address water and wastewater service.

REASON: Currently, City Code Section 28-57 provides that, subject to stated conditions, the City may stop the supply of City water to an individual residence if the service charges associated with the residence for water or wastewater service, or both, remain unpaid for 30 days following the due date. The City's practice has been not to stop water service unless charges for water or wastewater, or both, remain unpaid for at least 60 days past the due date. During this year's session, the Virginia General Assembly enacted an amendment to Virginia Code Section 15.2-2119.D, to increase the minimum time period over which service charges for water or wastewa-

ter service, or both, must remain unpaid before the locality can stop the services, from 30 days to 60 days. The Virginia Code amendment will become effective July 1, 2016.

City Code Section 28-57(a) currently addresses water, wastewater, and gas services and City Code Section 28-57(b) addresses water and wastewater services. The proposed ordinance also would provide added clarification by amending Section 28-57(a) to address only gas service.

RECOMMENDATION: Recommend City Council amend City Code Section 28-57 as shown in Attachment 1 to this O&R Request.

BACKGROUND: The Virginia General Assembly, through passage of House Bill 919, approved March 11, 2016, and as approved by the Governor, amended Virginia Code Section 15.2-2119.D, to provide that localities may stop water and wastewater services if service charges for water service or wastewater service, or both, remain unpaid for 60 days after the due date for such charges, subject to certain conditions. Regardless of the possible application of Section 15.2-2119.D to specific City utility practices, amending City Code to be consistent with the time-frames set forth in the Section (and as already followed by the Department of Public Utilities) is recommended.

City Code Section 28-57 currently provides that services for water may be stopped if service charges remain unpaid for 30 days after the due date for such charges. However, standard utility industry collection practices allow for service charges to remain unpaid for at least 60 days following the due date, before taking action to stop service for nonpayment. The City of Richmond Department of Public Utilities (DPU) follows standard utility industry collection practices. DPU's practice related to unpaid water and wastewater service charges already is consistent with the amended Virginia Code Section 15.2-2119.D.

FISCAL IMPACT / COST: None.

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: None.

REVENUE TO CITY: None.

DESIRED EFFECTIVE DATE: July 1, 2016.

REQUESTED INTRODUCTION DATE: 5/23/2016.

CITY COUNCIL PUBLIC HEARING DATE: 6/20/2016.

REQUESTED AGENDA: Consent.

RECOMMENDED COUNCIL COMMITTEE: Finance Committee.

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None.

AFFECTED AGENCIES: Department of Public Utilities.

RELATIONSHIP TO EXISTING ORD. OR RES.: None.

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Attachment 1, Proposed Amendment to City Code Section 28-57.
Attachment 2, House Bill 919 Enacted by the General Assembly of Virginia.

STAFF: Mark A. McClain, Customer Service Administrator, Department of Public Utilities
Gladys Grainger, Customer Service Manager, Revenue Recovery, Department of Public Utilities.

CHAPTER 415

An Act to amend and reenact § 15.2-2119 of the Code of Virginia, relating to delinquent water and sewer charges.

[H 919]

Approved March 11, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2119 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2119. Fees and charges for water and sewer services.

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 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:

DATE

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

RE: [INSERT FULL TENANT NAME AND ADDRESS]

To Whom It May Concern:

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

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Signed: _____

PROPERTY OWNER

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 which 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, lessee, or tenant, as the case may be, 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, lessee, or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within ~~two months~~ 30 days thereafter, the locality or person supplying water or sewage disposal services for the use of such real estate shall notify such owner, lessee, or tenant of the delinquency. If such owner, lessee, or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges 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 shall 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 ten business days prior to ceasing the supply of water or sewage disposal services, the locality or person supplying such services shall provide the owner, lessee, or tenant 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 in the amount of up to three months of delinquent water and sewer charges, any applicable penalties and interest on such delinquent charges, and reasonable attorney fees and other costs of collection not exceeding 20 percent of such delinquent charges. In no case shall a lien for less than \$25 be placed against the property. In the case of services to a lessee or tenant, if the locality does not cease supplying water to the lessee or tenant 60 within 60 days after the bill becomes delinquent, unless water is required to be provided pursuant to subsection D or other applicable law, there shall be no lien placed on the property for charges and collection costs beyond the 60-day period and no recourse against the property owner for service beyond the 60-day period.

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Approved March 11, 2016

F. Unless the locality has adopted a resolution to not require authorization from land owners for water and sewer service provided to lessees or tenants pursuant to subsection A, a lien may be placed on the property for water and sewer services used by a lessee or tenant only if the locality has (i) advised the owner of the property in writing that a lien may be placed on the property if the lessee or tenant fails to pay any delinquent water and sewer charges; (ii) mailed by first-class mail to the owner of the property, or sent electronically if requested by the owner, at the address listed in the written authorization from the owner of the property (or such other address as the owner may provide), a duplicate copy of the final bill sent to the lessee or tenant at the time of sending the final bill to such lessee or tenant; (iii) collected a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality for not less than three and no more than five months of water and sewer charges; (iv) ~~has~~ applied the security deposit held by the locality to the payment of the outstanding balance; (v) ~~has~~ employed reasonable collection efforts and practices to collect amounts due from a lessee or a tenant including filing for the Set-Off Debt Collection Program if the locality is a participant; and (vi) ~~has~~ provided the property owner with 30 days' written notice with a copy of the final bill to allow the property owner a reasonable opportunity to pay the amount of any outstanding balance and avoid the recordation of a lien against the property. If the property owner fails to pay the amount of the outstanding balance within the 30-day period, the locality may record a lien in the amount of the outstanding balance against the property owner. 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 in the amount paid by the property owner. The locality shall execute all documents necessary to perfect such subrogation in favor of the property owner.

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

H. The locality 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 a landlord authorization letter which has attached documentation showing such lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a security deposit shall not prevent a locality from exercising its lien rights as authorized under subsection F.

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

J. 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, which 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.

K. 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

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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.

L. 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 (L), 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:

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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: _____