

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-06-12

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 9th day of July, 2012:

Present:	Vote:
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
W.R. Davis, Jr.	Aye
James H. Burrell	Aye

Motion was made by Mr. Evelyn, which carried 5;0, to adopt the following ordinance:

**AN ORDINANCE AMENDING, RESTATING, AND READOPTING
CHAPTER 38, ARTICLE II, HEALTH AND SANITATION,
WATER AND WASTEWATER RATES / FEES, ETC. TO INCLUDE
CHANGES THAT RESULTED FROM
THE 2012 VIRGINIA GENERAL ASSEMBLY SESSION**

WHEREAS, pursuant to the Virginia Code Section 15.2-2109, the New Kent County Board of Supervisors has the authority to amend, restate and readopt Chapter 38, Article II, of the County Code; and

WHEREAS, the New Kent County Department of Public Utilities to comply with the changes from the State provides the following proposed amendments; and

WHEREAS, the New Kent County Board of Supervisors finds that changes to the Health and Sanitation ordinance are necessary to ensure that New Kent County is current with accepted standards and practices;

NOW THEREFORE BE IT ORDAINED that Chapter 38, Article II, Health and Sanitation, Water and Wastewater Rates/Fees, Etc., be amended, restated and readopted as set forth below:

Article II Water and Wastewater Rates / Fees, Etc.

- §38.11 Power to Fix Rates and Enforce Payment; Sufficiency of Rates
- §38.12 Application for Water Service Connections; Fees
- §38.13 Application for Wastewater Service; Requirements
- §38.14 All Metered Water to be Paid for; Exceptions; Testing Meter and Adjustments for Bill if Inaccuracy
- §38.15 Time of Payment; Overdue Accounts; Returned Checks.
- §38.16 Monthly Rates for Water and/or Wastewater Service
- §38.17 Renewal of Water and/or Wastewater Service
- §38.18 Meter Installation / Transfer Fees
- §38.19 Deposit Required When Property Owner not to be Billed for Water and / or Wastewater Service
- ~~§38.20 Responsibility of Owner of Premises for Payment of Bill~~
- §38.21 0 Grounds for Discontinuation of Service
- §38.22 1 Subordination of Note
- §38.23 2 Performance Agreements and Surety
- §38.24 3 Lien Established for Unpaid Water Charges

Sec. 38-11. Power to fix rates and enforce payment; sufficiency of rates.

- (a) The board is vested with full power to make and fix rates for use of water and wastewater from all customers of the water and wastewater system and to collect, require and enforce the payment of such rates by all remedies provided by law.
- (b) The water and wastewater rates fixed by the board shall be fair and just, but the rates shall take into consideration the cost of maintenance, extension, operation and administration of the water and wastewater system, and the cost of insurance against loss by injury, persons or property, and any other cost or expense growing out of or pertaining to the water and wastewater system, including interest on any surety. Such rates shall also be sufficient to pay at or before maturity annually any and all sureties issued on account of the water and wastewater system.

Any disputes of any description regarding any charges assessed by the county pursuant to this chapter shall be barred if more than six months has elapsed from the date such charges were billed.

Sec. 38-12. Application for water service connection and availability fees; requirements.

(a) Application. Applications for water service shall be made in writing on forms provided by the director. Application shall be made at the public utilities office, form. The property owner must make the application or provide written authorization on a prescribed form that a tenant or lessee may apply for water service in name of a lessee or tenant..

~~(a)(b) Connection and availability fees.~~ Applications for water service shall be made in writing on forms provided by the director. Application shall be made at the public utilities office, on a prescribed form, by the owner or agent of the premises to be served, at which time At the time of application, all applicable fees shall be paid as outlined in Appendix A. The written application shall serve as a contract with the county in which the consumer agrees to pay for all water used, consumed or wasted on the premises therein to be specified and upon the terms and conditions prescribed by the board from time to time. Every consumer by signing such application shall agree to observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and relating to the use of water while receiving the service. Whenever an application for water service is made pursuant to the provisions of section 38-111(c) or this paragraph and if the application is made within 90 days of the date owners are notified pursuant to section 38-111(b), in lieu of being paid in a lump sum at the time of application as prescribed above, it may be at the owner's option to be paid in 30 equal installments, at the rate of one-thirtieth of the total every other month. If he chooses this option, the owner shall execute a promissory note in a form acceptable to the county attorney. ~~The note shall state that default shall constitute a lien on the property in accordance with section 38-24.~~ The first payment shall be made at the time of application for service, and the subsequent 29 payments shall be tendered with the bi-monthly payments for water service pursuant to section 38-15. In the event that application is not made within the stipulated 90-day period, then the owner shall pay the applicable fees cited in Appendix A in a lump sum at the time application is made.

~~(b)(c) Connection Fees.~~ The connection fee for an increase in the size of an existing service shall be the greater of the actual cost of the new meter or the differential between the application fee for the new meter size and the existing meter size. An application for the changed connection shall be made and the application fee shall be paid.

The connection fee shall be assessed to all applicants. Its payment grants the applicant authorization to connect to the system and partial payment for back-up facilities. A meter fee will be charged as outlined in Appendix A which covers the cost of the water meter which will be provided by the system. When a building with an existing connection or authorization to connect is razed or removed, a building subsequently erected on the same premises shall not be considered a new connection and no application fee shall be assessed except to the extent an increased fee is due for an increase in the size of the service as otherwise provided.

The applicant shall construct and pay for all local and remote facilities in accordance with subsection (e) below.

- (e)(d) *Size of the meter.* The size of the meter installed shall be determined by the director.
- (d)(e) *Location of the meter.* The location of all connections is to be determined by the director and connection shall be made with the approval and under the supervision of the director or his designee.
- (e)(f) *Plans for development.* Developers, subdividers and individuals constructing any type of industrial commercial, housing development or individual home or building or building addition where people live or congregate, within a service area, or desiring to connect to the county water system, shall submit plans and specifications to the director for all main water lines, laterals, valves, hydrants and other appurtenances necessary for connection to the county water system for adequate fire suppression flows and consumptive usage. New off-site extensions shall be sized as required by the director or the approved water development plan to serve all existing and projected water demands to be served by the design route for the 50-year planning period.

After approval of said plans and specifications by the director, the applicant at his own expense and in accordance with department requirements and specifications, shall provide the department with three sets of approved plans and shall proceed to construct main water lines, laterals, valves, hydrants, and other appurtenances necessary, as required for connection to the county water system. The director or his designee, shall have the authority to inspect such systems during any phase of construction and may order construction stopped when not in conformity with plans and specifications previously approved or county standards. Such water lines, laterals, valves, hydrants, and other appurtenances, when connected, shall become the property of the county, and the person(s) shall execute such instruments as may be required conveying the same to the county. Whenever water main lines, fire hydrants, or valves are located on private property, the owner shall grant an exclusive deed of easement not less than 20 feet in width about such lines and appurtenances to the county for maintenance and repair

access. Any service taps off such lines shall be provided with curb stops and meter setters at the edge of the easement.

Where the capacity of an existing water distribution system is not sufficient to meet the fire service and potable use needs of the development, the developer, subdivider, or individual shall expand the capacity of the local and/or remote facilities of the existing water distribution system, as required by the director, so as to provide sufficient capacity to serve the fire service and potable use needs of the development while not decreasing the supply of water available to existing users of the water supply system.

If work has not commenced within one year of the plan approval, the plans will have to be resubmitted in compliance with any code changes.

(h) *Need-based assistance.* No security deposit is required if an authorization letter with documentation attached is provided to the Director by a landlord on behalf of a lessee or tenant which shows receipt of need-based local, state, or federal assistance.

Sec. 38-13. Application for wastewater service; requirements.

(a) *Application.* Applications for wastewater service shall be made in writing on forms provided by the director. Application shall be made at the public utilities office. The property owner must make the application or provide written authorization on a prescribed form that a tenant or lessee may apply for wastewater service in the name of lessee or tenant.

~~(a) (b) *Connection and availability fees.* Applications for wastewater service shall be made in writing on forms provided by the director. Application shall be made at the public utilities office, on a prescribed form, by the owner or agent of the premises to be served, at which time~~ At the time of application, all applicable fees shall be paid as outlined in Appendix A. The written application shall serve as a contract with the county in which the consumer agrees to pay for all wastewater used, consumed or wasted on the premises therein to be specified and upon the terms and conditions prescribed by the board from time to time. Every consumer by signing such application shall agree to observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and relating to the use of ~~water~~ wastewater while receiving the service. Whenever an application for wastewater ~~water~~ service is made pursuant to the provisions of 38-12 or this paragraph and if the application is made within 90 days of the date owners are notified pursuant to section 38-90. In lieu of being paid in a lump sum at the time of the application as prescribed above, it may be at the owner's option be paid in 30 equal installments, at the rate of one-thirtieth of the total every other month. If he chooses this option, the owner shall execute a promissory note in a form acceptable to the county

attorney. ~~The note shall state that default shall constitute a lien on the property in accordance with section 38-24.~~ The first payment shall be made at the time of application for service, and the subsequent 29 payments shall be tendered with the bi-monthly payments for wastewater service pursuant to section 38-15. In the event that application is not made within the stipulated 90-day period, then the owner shall pay the applicable fees cited in Appendix A in a lump sum at the time application is made.

When the number or size of an existing meter is increased, then the difference between the present connection fee costs and the new connection fee costs shall be paid.

A connection and an availability fee shall be assessed to all applicants. Its payment grants the applicants authorization to connect to the system and covers payment for back-up facilities. These fees are intended to help defray the capital costs of providing equipment necessary to continue operation of the county sewage facilities. When a building with an existing connection or authorization to connect is razed or removed, a building subsequently erected on the same premises shall not be considered a new connection and no application fee shall be assessed except to the extent an increased fee is due for an increase in the size of the service as otherwise provided.

The application shall construct and pay for all local and remote facilities in accordance with subsection (e) below.

- (b) *Size of wastewater lateral.* The size of the wastewater lateral installed to the main wastewater shall be determined by the director.
- (c) *Location of service provided.* Wastewater service is only provided by the county wastewater system to the property line of any premises supplied with wastewater service. Basement drains or drains connecting fixtures located below the level of the ground surrounding the building shall not be connected to the wastewater system unless the owner provides positive protection against the danger of flooding due to wastewater blockages, such as through the use of such devices as pumps, check valves, etc. In any case, no back-up of wastewater into any portion of a building or residence shall impose any liability to the county.
- (d) *Location and manner of connection.* The location of all connections is to be determined under the supervision of the director or his designee. Each individual building, be it a residence or a place of business, receiving wastewater service shall have a separate lateral to the wastewater main whether or not owned by the same person or persons occupying the same lot or lots. For the purpose of this article, an outbuilding shall not be considered an individual residence unless it is used as a dwelling.
- (e) *Plans for development.* Developers, subdividers and individuals constructing any type of industrial, commercial, housing development or individual home or building or building

addition where people live or congregate, within a service area, or desiring to connect to the county wastewater system, shall submit plans and specifications to the director for all local and remote facilities, necessary for connection to the public wastewater system. New off-site extensions shall be sized as required by the director or the approved wastewater development plan to serve all existing and projected wastewater demands to be served by the design route for the 50-year planning period.

After approval of said plans and specifications by the director, the applicant, at his own expense and in accordance with department of public utilities requirements and specifications, shall provide the public utilities department with three sets of approved plans and shall proceed to construct local and remote facilities, reference above, as required for connection to the county sewage system. The director or his designee shall have the authority to inspect such systems during any phase of construction and may order construction stopped when not in conformity with plans and specifications previously approved or county standards. Such main wastewater lines, laterals, pumps, manholes, and other appurtenances, when connected, shall become the property of the county public utilities department wastewater system, and the applicant shall execute such instruments as may be required conveying same to the county public utilities department. Whenever main sewage lines, pumps, or manholes hereafter are located on private property, the owner shall grant an exclusive deed of easement not less than 20 feet in width about such lines and appurtenances to the county public utilities department for maintenance and repair access.

Where the capacity of the existing wastewater system is not sufficient to meet the needs of the development, the developer, subdivider, or individual shall expand the capacity of the local and/or remote facilities of the existing wastewater system, as required by the director, so as to provide sufficient capacity to serve the wastewater needs of the development as well as the needs of the existing users of the wastewater system.

If work has not commenced within one year of the plan approval, the plans will have to be resubmitted in compliance with any code changes.

All wastewater connection and availability fees shall be paid for each lot or parcel to be served prior to final plat or site plan approval by the county, unless a wastewater availability fee agreement, as provided in subsection (f) below, has been entered into with the county prior to the due date.

(f) *Deferral of payment.* Water and wastewater fees for subdivisions of three or more lots or units, or planned unit developments may be deferred or made in installments pursuant to a wastewater connection availability fee agreement entered into with the county. The minimum requirements for such an agreement are:

(1) The agreement must be entered into before the development is approved.

(2) The agreement may provide for no greater than three annual installment payments and each installment shall be in equal amounts. The final payment shall be made no later than two years from the due date of at the date of the last connection usage fee payment is made, whichever occurs earlier. The county reserves the right to require a term of ~~not~~ less than two years if the projected build out of development is for a period less than two years from approval.

(3) The first installment payment must be made at the time of execution of the Agreement.

(4) The payment obligations under the agreement must be backed by an appropriate surety provided in a form acceptable to the county attorney. Such security must be provided at the time of execution of the agreement. The amount of security provided u under this section shall be reduced as the wastewater connection availability fee payments are received by the county.

(g) *Terms for alternative payment and security arrangements.* With the recommendation of the county administrator, the property owner/developers may request that the board of supervisors approve alternative payment and security arrangements under the following terms:

(1) Such deviation from the requirements serves a public interest rather than a private interest;

(2) There is good cause shown;

(3) Adequate and sufficient consideration is provided; and

(4) An agreement is entered into that is backed by a security in a form acceptable to the county attorney.

(h) *Need-based assistance.* No security deposit is required if an authorization letter with documentation attached is provided to the Director by a landlord on behalf of a lessee or tenant, which shows receipt of need-based local, state, or federal assistance.

Sec. 38-14. All metered water to be paid for; exceptions; testing meter and adjustments for bill of inaccuracy.

(a) All water passing through the county meter shall be charged and paid for, whether used or wasted. The county is not responsible for water charges incurred due to leakage or for water wasted by water service pipes or fixtures in disrepair which belong to the customer. However, in certain cases, the director may at his discretion determine a fair and reasonable settlement of the a disputed bill, when, in the opinion of the director, the

circumstances justify such consideration and without which, an injustice to the customer will result.

- (b) Adjustments shall not be considered for disputed bills for which six months has elapsed from the date such charges were billed.
- (c) Any customer shall have the right to request that the water meter serving his premises be examined and tested by the department of public utilities for the purpose of ascertaining whether or not it is registering correctly. When a customer desires to have such water meter so examined and tested, they shall make a request in writing to the director and, at the same time, pay a fee as provided in Appendix A. If such water meter, upon testing in accordance with American Waterworks Association Standards (“AWWA”)(latest revision), registers five percent more water consumption than actually passes through it, the water meter shall be replaced with an AWWA acceptable water meter. In addition, the fee paid pursuant to this section shall be refunded and the water bill shall be correspondingly corrected.

Sec. 38-15. Time of payment; overdue accounts; returned checks.

- (a) *Monthly payment.* All charges for water and wastewater service levied by this department shall be due and payable bi-monthly at the county treasurer’s office upon receipt of the bill. Failure of the customer to receive either a public utilities bill or disconnect notice mailed to the address on file shall neither be considered cause for nonpayment, nor justification for an extension of the payment date.
- (b) *Delinquent utility bills.* Any utility bill that is not paid by the last day of the month following water and/or wastewater service shall be delinquent. A disconnect notice shall be mailed when a bill is delinquent, and in the event the bill is delinquent for 15 days, the director shall discontinue the water and/or wastewater supply without notice.
- (c) *Late payment fee.* A late payment fee of ten percent of the delinquent amount due or \$5.00, whichever is greater, shall be added to a bill the first day the bill becomes delinquent.
- (d) *Payment extension fee.* For those ~~customers~~ property owners who are delinquent and cannot pay their bill by the disconnect date, an extension may be granted, provided the customer has not been terminated for nonpayment during the past two years, has contacted the department to work out an extension and agrees to pay an extension fee as provided in Appendix A to this Code. Extension of payments shall not exceed 15 days from the date the extension was granted.
- (e) When a check, which has been received in payment of a utility bill or in payment of a utility deposit or installation fee, is returned by the bank for insufficient funds, or any

other reason, the consumer shall pay a service charge for each returned check as provided in Appendix A. This charge is to defray the administrative cost to the county for handling and processing such returned checks.

Sec. 38-16. Monthly rates for water and/or wastewater service.

- (a) The monthly rates for water and/or wastewater service are based upon metered consumption of water, effective when service becomes available and shall be as provided in Appendix A.
- (b) Where any building or premises supplied by a single service is rendered to one or more tenants, the water and/or wastewater bill shall be charged to and paid by the owner of the premises who alone shall be deemed the agent for the whole building or premises for this service.
- (c) Whenever a water meter is out of order and fails to register, the customer shall be charged with an average daily consumption as shown by the meter when in good working order and registering correctly.

Sec. 38-17. Renewal of water and/or wastewater service.

- (a) *Renewal of wastewater service.* In case wastewater service is discontinued for violation of any of the regulations, contained in this chapter, such service will only be renewed when the conditions under which such service was discontinued are corrected, the payment of all proper rates, charges and the payment of a renewal fee, as provided in Appendix A are provided to the county treasurer. For any person requesting renewal of wastewater service which was terminated for nonpayment, outside of normal working hours (before 8:00 a.m. or after 4:30p.m., Monday through Friday, or Saturday or Sunday), an additional charge as outlined in Appendix A will be made for the renewal of wastewater service. No person who is delinquent for wastewater service at any premises within the county shall have the right to wastewater or water service at any other place or premises within the county until such time as payment is made and a deposit is provided, whether he is owner or tenant of such premises.
- (b) *Renewal of water service.* When water service has been discontinued for a violation of any of the regulations contained in this chapter, such service will only be renewed when the conditions under which such service was discontinued are corrected, the payment of all proper rates and charges and the payment of a renewal fee, as provided in Appendix A, to the county treasurer. For any person requesting renewal of water service which was terminated for nonpayment, outside of normal working hours (before 8:00 a.m. or after 4:30 p.m., Monday through Friday, or Saturday or Sunday), an additional charge, as outlined in Appendix A, will be charged for the renewal of water service. No person who is delinquent for water or wastewater service at any premises within the

county shall have the right to water service at any other place or premises within the county, whether he is the owner or tenant of such premises.

- (c) *Reestablishment without authorization.* Should water or wastewater service be terminated to any premises by the county for any violation of this chapter and afterwards be found reestablished without authorization from the director, the water meter shall be removed and will not be reinstalled until the conditions under which such service was discontinued are corrected, upon payment of all outstanding charges, and, in addition, thereto, pay a meter reinstallation fee as provided in Appendix A.

Sec. 38-18. Meter installation/transfer fees.

A fee as outlined in Appendix A will be charged for establishing new accounts, or for a customer who transfers from one location to another within the system. Water service will not be turned on for any customer or location who has an outstanding delinquent water and/or wastewater bill.

Section 38-19. Deposit required when property owner not to be billed for water and/or wastewater service.

A deposit, as outlined in Appendix A, is required with the application for service. The deposit shall be held by the county until applicant ceases to ~~be served by the county~~ ~~system~~ reside at the service location at which time such deposit shall be returned, without interest, to the person by whom it was made; provided that the meter has been read and all charges or fees to date deducted from the amount of deposit. The repayment will occur as a credit to the final bill. If the deposit is not sufficient to pay all charges and fees due on the date on which the ~~applicant~~ customer vacates the premises in question, the applicant shall pay the balance due.

~~Sec. 38-20. Responsibility of owner of premises for payment of bill.~~

~~Where any building or premises supplied by a single service is rendered to one or more tenants, the water and/or wastewater bill shall be charged to and paid by the owner of the premises who alone shall be deemed the agent for the whole building or premises for this service.~~

Sec. 38-210. Grounds for discontinuation of service.

Service may be discontinued for any of the following reasons:

- (a) Permitting water and/or wastewater service through a pipe to any property other than that described in the application.

- (b) In case of vacancy of the premises without notice to the department.
- (c) For violation of sections 38-6, 38-31, 38-32 or 38-33
- (d) For nonpayment for water and/or wastewater service
- (e) For introducing into any pipes connected to the county water and/or wastewater system any water other than that supplied by the county system.
- (f) For tampering or altering by the customer, or others with the knowledge of the customer, with any meter, service connection, water service line, or any other appurtenances of the county water system which regulate or control the customer's water supply.
- (g) For willful waste of water from improper pipes, fixtures or otherwise pursuant to the State Conservation Water Management Plan.

Sec. 38-22-1. Subordination of note.

In the event the owner of property has signed a promissory note for the repayment of a connection fee, as such note is described in section 38-12 and/or 38-13, the director is hereby authorized to execute any appropriate document, assuming same has been approved as to form by the county attorney, to subordinate the note and the lien represented by such notice when the county has been requested to do so by the commonwealth or any bona fide agency thereof or political subdivision thereof.

Sec. 38-232. Performance agreements and surety.

A letter of credit, certified check, bond or other surety in a form acceptable to the county attorney shall be required of developers, subdividers, or other person prior to the issuance of any building permits for the development to insure completion of all improvements required by this chapter. The amount of the surety and the designated length of time of completion of the required improvements shall be fixed by the director of public utilities or his authorized designee.

~~Sec. 38-24. — Lien established for unpaid water charges.~~

~~— As provided in section 15.2-2118 of the Code of Virginia, 2007, as amended, any unpaid tax or charges for water or wastewaters or use thereof furnished by the county water system or county wastewater system shall become a lien on the real estate served by such waterline or wastewater system.~~

~~Secs. 38-25 — 38-29. — Reserved.~~

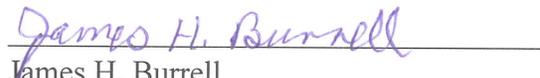
Sec. 38-23. Lien Provision.

As provided in sections §15.2-2118 and §15.2-2119 of the Code of Virginia, 2007, as amended, a lien for up to three months of delinquent water and wastewater charges may be placed on a property for non-payment. The lien may include penalties, interest, attorney fees and other costs not to exceed 20 percent (20%) of the delinquent charges.

This ordinance shall be effective upon its adoption.



G. Cabell Lawton, IV
County Administrator



James H. Burrell
Chairman