

# ORDINANCE 2018-08-01

## AN ORDINANCE REPLACING WATER ORDINANCE 2018-01

AN ORDINANCE CONTAINING THE CONDITIONS OF WATER SERVICE TO BE FURNISHED BY THE TOWN OF PISGAH, ALABAMA AND FIXING AND PRESCRIBING RATES, CHARGES AND TERMS OF THE WATER RATE SCHEDULE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PISGAH, ALABAMA AS FOLLOWS:

### SECTION 1. DEFINITIONS

**Water System** – “Water System” means all facilities for the gathering, impounding treatment, transmission and distribution of water for domestic use or for industrial use or both, together with all appurtenances to any such facilities within the present corporate limits of the Town of Pisgah and the surrounding territory.

**Town** - ‘Town’ shall mean the Town of Pisgah

**Dwelling** – ‘Dwelling’ a self-contained unit of accommodations, whether a house, manufactured home, residence, abode, campers, apartments, a place to live. Building that are used for any type of business that is serviced by electricity may be required to connect to the Town’s water system.

**Origination Fee** – A non-refundable fee for opening up a water account.

**Handling Fee** – A fee charged to accounts that are thirty (30) days past due.

### SECTION 2. INSTALLATION OF RIGHT OF WAY

The Town of Pisgah water lines, meters and fire hydrants shall be installed on public right of way after proper permission and permits are obtained from state, county and town wherever applicable.

When conditions exist that prohibit installation on public right of way, installation shall be as close as possible to public right of way, after written easement is obtained from affected land owner.

### **SECTION 3: ACCESS TO PREMISES**

Duly authorized agents of the Town shall have access, at all reasonable hours, to the premises of the user, for the purpose of installing or removing Town property, inspecting piping, reading and testing meters, or for any other purpose in connection with the Town service and facilities. Each customer, by having or leaving his/her premises connected to the facilities of the Town and accepting services therefore, shall consent and agree to such access and such removal.

### **SECTION 4. APPLICATION FOR SERVICE**

A person requesting service, whether a new service or at an existing service, shall make application for service in person at the Town Hall office and pay in full any fees required. Each user's service must be separately metered at a single delivery and metering point. (See Town of Pisgah Water Rate Schedule, Exhibit A, for applicable fees.)

### **SECTION 5. METERS**

After application and appropriate fees are paid, a meter shall be installed upon each connection to the water system by employees of the Town of Pisgah. (See Town of Pisgah Water Rate Schedule, Exhibit A, for applicable fees.)

Each residential dwelling, commercial or industrial building shall have its own separate and independent water meter and connection. All meters, service connections, and other equipment furnished by the Town shall be and remain the property of the Town of Pisgah.

(With this Ordinance the Town chooses to grandfather in the existing businesses that are being served by connection to a personal dwelling water meter – the Town will not require a meter to be set, however, it will require that a minimum bill be charged per month for the attached business. See Attachment B for a listing of businesses being grandfathered.)

A duly authorized agent of the Town shall read the meter at least once in each month for billing purposes and checking water usage.

### **SECTION 6. CUSTOMER'S RESPONSIBILITY**

The customer shall be responsible for connecting and furnishing all service lines from the meter to the dwelling. The customer must replace the meter box after installation of his/her service lines.

All leaks from the meter's customer's side shall be the responsibility of the customer to repair.

## **SECTION 7. EXCESSIVE WATER USE, LEAKS**

In the event a customer reports leaks or other problems concerning his/her water service and such problems are determined to be the responsibility of the customer, the Town shall have the authority to work out a payment plan with the customer if the bill is \$75.00 over the minimum charge of water. The Town cannot adjust water usage.

## **SECTION 8. CHANGE OF OCCUPANCY**

Not less than three (3) business days' notice must be given in person, or in writing, at the Town Hall office, to discontinue service or to change occupancy. The discontinuing party shall be responsible for all service up to the time of departure.

The new occupant must apply for service within three (3) business days of occupying the premises, and failure to do so will make him liable for the service from the last meter reading.

## **SECTION 9. LANDLORDS AND RENTERS**

Land owners who rent properties have the option of keeping the water meter connection in his/her name or requiring their renters to apply for service in their name. Should a landlord require the renter to apply for service, the landlord must notify the Town office in person or by phone call that the renter has his/her permission to apply for service.

The Town will disconnect any rental residence that is 30 days past due, however, should a renter move out of the dwelling and leave a balance due, the landlord will be held responsible for all the balances due on the account. The Town will not reconnect water services until the balance on the account is paid in full.

## **SECTION 10. DEATH OF A CUSTOMER**

When the Town of Pisgah is notified or learns of a death of a customer with an open water account, the Town will after thirty (30) days notify the Estate, that the Town will be closing out the water account of the deceased customer.

If the deceased owner has a refundable deposit on file with the Town, then that deposit will be applied to the deceased's outstanding bill. Should there be a balance due after applying the deposit the bill must be paid in full by the Estate within 15 days after receiving notice from the Town concerning closing the account. If the deceased does not owe the Town, then the deposit will be issued to the Estate of the deceased person within 15 days of closing the water account.

In the event that the residence of the deceased person is still occupied, rented, or inherited by other owners, then within 15 days of closing the account, the occupant of the dwelling must make application and pay appropriate fees for continued service.

#### **SECTION 11. PERMITTING ANOTHER TO USE**

It shall be unlawful for any person, who is a water customer of the Town of Pisgah, to allow any other person the use of water through his connection, or hydrants, either for compensation, or as a gratuity, or under any arrangement to share the water rental. The intent of this section is to prevent the larceny of water and it shall be so construed.

#### **SECTION 12. PROCURING TOWN WATER – FIRE PLUGS**

It shall be unlawful for anyone to take or use any Town water procured in any way except through the normal distribution metered system. No one except members of the fire department or an employee of the Town's Water System shall open or close any valve of any pipe, fire hydrant or water plug.

Fireplugs are to be exposed for easy access to the fire department or Town employees. There shall not be any vegetation planted near fireplugs, such as flowers, vines, shrubbery, nor decorative fencing.

If an individual water customer of the Town of Pisgah wishes to have a fire hydrant installed near their residence, the customer shall make a request to the Town, and pay in advance the full cost of the fire hydrant and any material needed to complete the installation. The Town employees will then install the fire hydrant near the customer's residence. The fire hydrant is considered property of the Town and the above same requirements in this Section 12 applies to this fire hydrant also.

#### **SECTION 13. TAMPERING WITH METERS**

In the event a meter has been tampered with, lock or the seal broken, the affected service to the customer may be disconnected and/ or a service charge assessed. Moreover, if any substance, article or material is placed on or in the vicinity of a meter which ultimately results in causing a meter to malfunction, this shall be interpreted as meter tampering and the affected service to a customer may be discontinued and/ or a service charge assessed.

#### **SECTION 14. UNAUTHORIZED RECONNECTION OF SERVICE**

Any person who connects or reconnects a dwelling, commercial or industrial building to water services without the authority or permission of the Town of Pisgah shall be guilty of a Class C misdemeanor and subject to punishment as provided by law and further be assessed a fee of

One Hundred Dollars (\$100.00), plus cost of material and labor for any damages to the property of the Town.

#### **SECTION 15. VOLUNTARY DISCONTINUANCE OF SERVICE**

A customer may, at any time, request the discontinuance of service, and upon the payment of all charges and fees for water afforded the customer, the account will be closed. If the customer has a deposit on file with the Town, the deposit shall be refunded to the customer without interest.

#### **SECTION 16. BILLING, PAYMENTS AND LATE FEES**

a) Meters will be read monthly, but the Town reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

b) All users on the Town's Water System shall be rendered a monthly bill, however, the Town reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

c) Bills for water will be figured in accordance with the rate schedule approved by the Town Council and will be based on the amount consumed for the period covered by the meter reading. A minimum bill which is equal to one full month's service is the least amount charged whether there is usage or whether there has not been any usage.

d) Utility bills are due by the 1st of the month with a grace period to the 10<sup>th</sup> of the month by 3:30 p.m. If the 10<sup>th</sup> falls on a week-end or a holiday, or if the office is closed, then the due date will be the next business day by 3:30 p.m.

e) Utility bills are delinquent after the 10<sup>th</sup> due date at which time a .03% late fee will be added. However, payments received by mail after the due date will not be charged the .03% provided the U.S. Postmark is on or before the 10<sup>th</sup> of the month. The Town will not mail out DELINQUENT NOTICES or call on delinquent accounts.

f) Night-drop payments after office is closed on the 10<sup>th</sup> will be considered late and charged a late fee of .03%.

g) There shall be no arrangements made with a customer in negotiating the payment of their bill. Exception is when a leak causes the bill to be \$75.00 above the minimum monthly bill; the Town shall have the authority to set up a payment plan.

h) Failure to receive a bill shall not prevent such bills from becoming delinquent nor relieve the customer from payment or late charges.

## **SECTION 17. SUSPENSION OF SERVICE**

- a) Any water bill not paid in full by 3:30 p.m. on the 10<sup>th</sup> of the month (or on the next business day if the 10<sup>th</sup> falls on a weekend or holiday) shall be charged a late fee of .03% of the total due.
- b) After 9:00 a.m. on the 14<sup>TH</sup>, any account with a past due balance shall be assessed a \$50.00 handling fee and services shall be suspended.
- c) If the locked account remains unpaid by the 2<sup>nd</sup> of the following month, the account will be closed. To re-establish service, a non-refundable origination fee of \$100.00 will be required and any unpaid balance in the customer's name shall be paid.
- d) All charges against a locked account must be paid in full before service will be restored. Payments must be received by 3:30 p.m. on a business day in order to have water restored on that same business day. Services will not be restored until the next business day for those payments received after 3:30 p.m.

## **SECTION 18. REQUEST FOR TEMPORARY SERVICE**

- a) Any customer requesting temporary service of water (i.e. home owner for temporary cleaning or maintenance or realty company showing a house for sale) for a period not to exceed thirty (30) days will be required to complete an application and will be charged a \$25.00 account origination fee. Each new 30 days will require a new application and \$25.00 origination fee.
- b) Customers who request an additional meter for sprinkler system, gardens, pools, etc. for seasonal use will be required to complete an application and will be charged the standard tapping fee along with \$100.00 origination fee.

## **SECTION 19. COLLECTIONS**

By accepting water services from the Town, the customer agrees to pay the town's cost of collection and enforcement, including reasonable attorney's fees (whether suit is actually filed or not), in the event the customer defaults on his/her obligation to pay the charges and fees for water service.

When any bill for water, together with all applicable fees, remains unpaid for one hundred and twenty (120) days, the Town shall be authorized to file a lien in the land records of the Office of Probate Judge of Jackson County against the real property served by the delinquent account for the past due amount. The past due amount shall be a lien upon the property in favor of the Town to be collected as other debts are collected or liens enforced.

The Town of Pisgah shall notify the property owner by registered mail, addressed to the address on file for the parcel, of said delinquent account and the amount of the lien to be assessed. At any time within fifteen (15) days after such notice has been mailed by the Town, the property owner shall have the right to file in writing with the Town Clerk any objection against the lien. The Town Council, at its next meeting after the filing of such protest, shall hear such protest and any evidence which the property owner may offer. The Council may confirm, modify, or cancel the proposed lien fixing the assessment.

## **SECTION 20. DELINQUENT ACCOUNTS**

As a condition precedent to initiating water at a particular location, a prospective customer must certify to the Town that neither the customer, nor his or her spouse, nor any other resident in the household proposed to be served has any delinquent utility bills with the Town. Any misrepresentation concerning that information shall be grounds for discontinuation of service.

If the Town determines that an occupant of a household provided with water service by the Town owes a delinquent utility bill or bills to the Town, the Town shall be authorized to transfer the entire amount of the delinquent bill or bills to the current, active customer account of the household.

Prior to the transfer of said delinquent bills, the Town shall provide written notice of its intent to transfer and an opportunity for the affected customer to object and contest said transfer. Following the transfer of said delinquent bills, the customer shall pay any delinquent bill or bills transferred to his or her account at the time the charges for his or her current utility service are due. In the event said charges are not paid when due, the customer's account shall be subject to involuntary discontinuance of service.

Following the involuntary discontinuance of water for non-payment, no member of a customer's family or any person living in the same house, building, or on the premises with the customer where the water service has been discontinued shall have the right to make a deposit for water service, or to request that the water service be reconnected at such location, so long as 1) the delinquent customer lives on the premises; and 2) the water and all applicable fees remain unpaid.

## **SECTION 21. RETURNED CHECKS/BANK DRAFT/CREDIT CARDS FEES**

A fee of \$25.00 will be charged for each check or bank draft or credit card that has been presented as payment for any service provided by the Town of Pisgah and has been returned by the issuing bank unpaid. An attempt to notify the customer of the returned check, bank draft or credit card will be made by telephone when available. No representation is made by the Town of Pisgah that the Town is obligated to substantiate that the notification attempt was received by the customer. The customer shall have three (3) days from the receipt of the returned instrument to redeem the item by cash or certified fund. If payment is not received within three (3) days from receipt of a returned instrument, utility service will be disconnected. If the customer has not redeemed the unpaid funds within two days after disconnect, then a certified letter will be sent to the customer as required by law notifying them they have 10 days to pick up the returned item and pay all applicable fees before being turned over to the District Attorney. An account that has been disconnected due to a returned item will be subject to the standard origination fee of \$100.00.

Any customer or person presenting two checks or two bank drafts or credit card payments of utilities which are returned unpaid within a one (1) year period shall be unable to issue the check, credit card, or bank draft for payment on their account, or anyone else's account, for the subsequent twelve (12) month period. During this period their account must be paid by cash or certified check. A certified letter will be sent to any customer upon receipt of a second unpaid instrument informing the customer of the period for which the unpaid check, credit card, or bank draft will not be accepted as payment.

## **SECTION 22. COPY TO CUSTOMER**

Upon request, any customer shall be furnished a copy of this Ordinance and the Town of Pisgah's Water Rates and Fee Schedule. However, regardless of whether a customer has received a copy of this Ordinance or said Rates and Fee Schedule, every customer agrees to the terms of this Ordinance and said rates, fees, charges and terms set forth herein and therein, by accepting service from the Water System of the Town of Pisgah.

## **SECTION 23. TOWN OF PISGAH WATER RATES AND FEE SCHEDULE**

The Town hereby adopts the Town of Pisgah Water Rates and Fee Schedule, attached hereto as Exhibit A and expressly incorporated herein by reference.

Automatic Increase – Effective March 1 of 2019, the base rate for water within and without Town limits as shown on the Town of Pisgah Water Rates shall automatically increase by approximately seven percent (.07%) ; effective, March 1, 2020 the base Water Rate shall increase by approximately seven percent (.07%); then beginning March 1, 2021, and each year

thereafter, the basis Water Rate as shown on the Town's Water Rates and Fee Schedule shall increase by approximately two percent (2%), unless action is taken by the Town Council.

The Town of Pisgah Water Rates and Fee Schedule shall be subject to adjustment by ordinance of the Town Council of the Town of Pisgah.

**SECTION 24. ORDINANCES REPEALED**

All Ordinances (including Ordinance 1218-01) or parts of Ordinances insofar as the same, conflict with the provisions of this Ordinance are hereby repealed and all amendments thereto, rates and fee schedules, are hereby repealed.

**SECTION 25. SEVRABILITY**

The provisions of this Ordinance are severable. If any section, subsection, schedule or provisions of this Ordinance be for any reason declared void or invalid, such invalidity shall not affect any other section, sub-section, schedule or provision of this Ordinance.

**SECTION 26. EFFECTIVE DATE**

This Ordinance 2018-08-01 shall become effective immediately upon its adoption and posting in three places as required by law.

**ADOPTED AND APPROVED this the 1st day of October , 2018.**

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Mayor, Leamon Smith

SEAL:

ATTEST: \_\_\_\_\_  
Acting Town Clerk, Cathy O'Shields

