

MEDARYVILLE TOWN COUNCIL

ORDINANCE #2019-08-01

SECOND AMENDMENT TO ORDINANCE NO. 2008-07-01 TO REFLECT RECENT CHANGE IN STATE LAW (I.C. 8-1.5-3-8) PROHIBITING COLLECTION OF RATES, CHARGES, AND FEES ASSESSED BY MUNICIPALLY OWNED UTILITY WHEN PROPERTY IS OCCUPIED BY SOMEONE OTHER THAN THE PROPERTY OWNER

WHEREAS, on or about June 16, 2008, the Medaryville Town Council enacted Ordinance No. 2008-07-01 entitled "An Ordinance of the Town Council of the Town of Medaryville, Indiana Establishing a New Schedule of Water Rates and Charges for the Town;" and

WHEREAS, on or about March 18, 2009, Ordinance No. 2008-07-01 was amended by virtue of Ordinance No. 2009-03-01 entitled "*An Ordinance Amending 3(h) of Ordinance No. 2008-07-01 of the Town Council of the Town of Medaryville, Indiana Establishing a New Collection of Deferred Payment Charge for Water for the Town*" to change the date of the collection of the deferred payment for water to coincide with the deferred payment for sewer collection; and

WHEREAS, Section 4(b) of Ordinance No. 2008-07-01 established the provisions for disconnection of water services when the same have been due and unpaid for a set period of time and that "...water service, once discontinued, will not be reestablished until such time as the current bill, any and all arrearages, any and all fees (including but not limited to reconnection fee, tampering fee, damage fee, etc..) owed by the customer and property owner are paid in full" (emphasis added); and

WHEREAS, Indiana state law, specifically, I.C. 8-1.5-3-4(d) has recently changed and said section currently provides as follows:

- Provides that all rates, charges, and other fees for service rendered by a municipally owned utility (other than services rendered by a municipally owned sewer utility) to property occupied by someone other than the owner are payable by the person occupying the property if the account or other customer or billing records maintained by the utility for the property indicate that:
 - (1) the property is occupied by someone other than the owner; and
 - (2) the person occupying the property is responsible for paying the rates, charges, and fees.
- Provides that upon applying for utility service from a municipally owned utility, the person occupying the property shall provide the utility with the name and contact information of the owner or manager of the property.
- Provides that rates, charges, and fees assessed by a municipality owned utility with respect to property occupied by someone other than the owner do not constitute a lien against the property.
- Specifies that these provisions do not:
 - (1) Prohibit a municipal legislative body from imposing any requirement to:
 - (a) Ensure payment by; or
 - (b) The creditworthiness of the person occupying the property; or
 - (2) Abrogate or limit the authority of the owner of a multi-unit building to engage in electrical submetering.

WHEREAS, due to the recent changes in I.C. 8-1.5-3-4(d) amendments to Ordinance No. 2008-07-01 are now required.

NOW, THEREFORE, BE IT ORDAINED by the Town of Medaryville, Indiana as follows:

Section 1. Section 1.1 shall be added to Ordinance No. 2008-07-01 and shall now

read as follows:

"Section 1.1. Applying for Service. Upon applying for water service, the person occupying the property shall provide the utility with the name and contact information of the owner or manager of the property."

Section 2. Section 2 of Ordinance No. 2008-07-01 shall now be amended to read as follows:

"The town shall require a deposit to be made at the time of application for service to ensure payment of utility bills, including the service charge for garbage removal, by a customer. The deposit shall not exceed One Hundred Fifty Dollars (\$150.00) per applicant. The town may require a present customer to make a deposit when the customer has received disconnect notices for two (2) months within the preceding twelve (12) month period, or when the service has been disconnected pursuant to rules for nonpayment or as otherwise provide by law. A deposit may be used by the town to cover any unpaid balances following the disconnection of a utility service. In addition, the deposit may used by the town to cover any unpaid balances for garbage removal service(s). When service to the applicant is disconnected permanently, the deposit less any amount used to pay for such utility service or garbage removal service shall be refunded to the applicant.

Section 3. Section 4(b) of Ordinance No. 2008-07-01 is hereby repealed and shall now read as follows:

"(b) Water service may be discontinued for nonpayment of water and/or sewer charges that have been due and unpaid for at least 36 days from the date the bill is mailed. Before water service is discontinued, written notice shall be provided to the water customer of the Town's intention to discontinue water if the unpaid charges are not paid within 10 days of the date specified in the notice. Such notice shall be sent to the property serviced unless other arrangements, in writing have been made with the Town. Water service, once discontinued, will not be re-established until such time as the current bill, any and all arrearages, any and all fees (including but not limited to reconnection fee, tampering fee, damage fee, etc...) owed by the customer are paid in full. By way of example, the bill for water services for March is billed on April 1. Pursuant to Section 2(i), a deferred payment charge would be applied on April 16. On or before April 21, notice would be provided of the scheduled disconnect for May 6, unless the customer's account is brought current."

Section 4. Except as amendment by this Ordinance, all other provisions of Ordinance No. 2008-07-01 (including the first amendment to Ordinance No. 2008-07-01 by virtue of Ordinance No. 2009-03-01) shall remain in full and effect.

Passed by the Town Council of Medaryville, Indiana, this 21st day of August, 2019 by a vote of 3 yes to 0 no.

Robert Schultz

Robert Schultz, President
Medaryville Town Council

Suzanna J. Wilcox

Suzanna Wilcox, Member
Medaryville Town Council

Ray Saltsman

Ray Saltsman, Member
Medaryville Town Council

