

First Reading: 08/07/18
Second Reading: 09/04/18
Ord. No.: E-3A

GREENWOOD ORDINANCE NO. E-3A

AN ORDINANCE AMENDING “AN ORDINANCE ESTABLISHING REGULATIONS FOR PROVIDING WATER SERVICE WITHIN THE TOWN OF GREENWOOD AND PRESCRIBING RATES, FEES, AND PENALTIES” TO CLARIFY THE PROCEDURES AND FEES ASSOCIATED WITH WATER SERVICE DISCONNECTIONS AND RECONNECTIONS

WHEREAS, the Town of Greenwood is authorized pursuant to section 29(a)(12) of the Town Charter to “provide an ample supply of pure water for the Town and its inhabitants” and to regulate the distribution, use, and fees associated with the provision of water services;

WHEREAS, the Town of Greenwood previously adopted “An Ordinance Establishing Regulations for Providing Water Service within the Town of Greenwood and Prescribing Rates, Fees, and Penalties”;

WHEREAS, the procedures for disconnecting water service for nonpayment are too lenient, resulting in many individuals taking advantage of these procedures by habitually allowing their water service account balances to become past due;

WHEREAS, in the opinion of the Town Council, by clarifying and shortening the time period within which outstanding balances become past due and within which the Town may commence disconnection proceedings, and by establishing a reconnection deposit, the Town will encourage more customers to pay fees, charges, and other amounts owed for water services in a timely manner and will experience fewer delinquencies; and

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to amend the Town’s water ordinance as further outlined herein.

NOW THEREFORE, be it hereby enacted by the Town Council of the Town of Greenwood, a majority thereof concurring in Council duly met, that “An Ordinance Establishing Regulations for Providing Water Service within the Town of Greenwood and Prescribing Rates, Fees, and Penalties” be and hereby is amended as follows:

Section 1. Amend Section 9 (Shut Off) by deleting Section 9 in its entirety and replacing it with the following:

SECTION 9. SHUT OFF.

9.1. Nonpayment – If an invoice for water services or any other charge related to the Greenwood water system (i.e. water assessments, fines and interest, repairs to meters damaged by customers, etc.) is more than fifteen (15) days past due, the Town may, in

addition to any other remedies available, disconnect the water service. At least ten (10) days prior to disconnecting the water service, a disconnection notice shall be posted on the property and mailed or hand delivered to the property owner. If the property owner's mailing address on file with the Town is not the same address as the property, notice shall also be mailed or hand delivered to the occupant. The disconnection notice shall indicate the total outstanding balance that must be paid to avoid disconnection of the water service and that the property owner or occupant may file a written appeal with the town manager within ten (10) days of the date of the notice. All proceedings to disconnect water service shall be stayed during an appeal.

9.2. Unauthorized Use – If after a water service permit is issued the Town discovers water being used in a greater amount or for a different purpose than authorized by the permit, the Town may disconnect the water service in accordance with the notice requirements and appeals procedures outlined in Section 9.1. The disconnection notice shall include those actions that need to be taken to prevent the disconnection of water services. All proceedings to disconnect water service shall be stayed during an appeal.

9.3. Unauthorized Water Connections – If the Town discovers a building or property has been connected to the Town of Greenwood water system without the issuance of a water service permit, the Town may disconnect the water service within 72 hours of written notice being posted on the property or hand delivered to the property owner or occupant. A written appeal may be filed with the town manager within 72 hours of the posting or delivery of the disconnection notice. All proceedings to disconnect water service shall be stayed during an appeal.

9.4. Illegal Water Use – If the Town discovers illegal water usage at a building or property, the Town may disconnect water service within 72 hours of written notice being posted on the property or hand delivered to the property owner or occupant if the property owner or tenant fails to cease the illegal water usage as detailed in the notice. A written appeal may be filed with the town manager within 72 hours of the posting or delivery of the disconnection notice. All proceedings to disconnect water service shall be stayed during an appeal.

9.5. Either the Town Manager or the Town Council may shut off the street mains for repairing the mains or making connections or expansions to the same, or for the purpose of cleaning and maintaining the same. No main shall be shut off without twenty-four (24) hours prior written notice to the water users affected, except in cases of emergency. No licensed plumber or other person shall shut off the water from any of the Town mains nor place a tap thereon without written authorization from the Town Manager or the Town Council.

9.6. Disconnection Procedures. – Whenever it becomes necessary to disconnect water service for nonpayment, the Town shall not disconnect water service between 12:00 noon on Friday and 12:00 noon on Monday. If Friday or Monday is a legal, state, or national holiday, the last preceding business day shall be substituted for Friday, and the next succeeding business day shall be substituted for Monday. Water service shall not be shut

off at any property with an occupant who is so ill that his/her health or recovery will be adversely affected by the disconnection of water service, provided that any such health condition shall be certified to in a writing submitted to the Town prior to the disconnection of water service by a licensed physician, physician assistant, or advanced nurse practitioner. Any such writing shall be effective for 120 days, and the Town need not accept a new signed writing at the end of the 120 days unless a good faith effort has been made to pay off the outstanding water balance. Unless the Delaware Public Service Commission has adopted regulations defining a good faith effort to make payments, a good faith effort shall be demonstrated by at least 50% of the original past due balance having been paid off and no additional past due water fees having accrued on the account during the 120 days.

Section 2. Amend Section 10 (Water Service Disconnect and Reconnect Charge) by deleting Section 10 in its entirety and replacing it with the following:

SECTION 10. WATER SERVICE DISCONNECT AND RECONNECT CHARGE.

10.1. A service charge of \$50.00 shall be imposed each time a property or building is disconnected from the Town of Greenwood water system, and an additional \$50.00 service charge shall be paid prior to the reconnection of a building or property to the Town of Greenwood water system.

Section 3. Amend Section 11 (Reinstatement of Water Service) by deleting Section 11 in its entirety and replacing it with the following:

SECTION 11. REINSTATEMENT OF WATER SERVICE.

11.1. Any property owner who has had water service disconnected by the Town under Section 9 for nonpayment twice within twenty-four (24) consecutive months shall, in addition to the disconnection fee, reconnection fee, and any other fees, fines, or other monies owed, pay a \$200.00 deposit prior to the reconnection of the water service. The deposit may be used by the Town without prior notice to the property owner to pay any future water account balances that are past due. If the deposit is used in its entirety, the Town may proceed to disconnect the water service for any additional past due balances pursuant to the procedures in Section 9.1, and a new deposit of \$200.00 shall be required prior to the reconnection of the water service. At such time as a property is sold, any unused deposit funds shall be refunded to the owner after all water account balances have been paid.

11.2 Where water service has been disconnected pursuant to section 9.3 of this Ordinance, water service shall be reinstated upon the issuance of a proper water service permit, the payment of a fine in the amount of \$250, and the payment of all other fees established by this Ordinance.

11.3 Where water service have been disconnected pursuant to sections 9.2 or 9.4 of this Ordinance, water service shall be reinstated upon the payment of a fine in the amount of

\$250 and the payment of all other fees established by this Ordinance. If a second violation of sections 9.2 or 9.4 is discovered by the Town within 12 months of the first violation, the fine shall double.

Section 4. Amend Section 16 (Termination of Service) by deleting Sections 16.1.1 and 16.1.6 in their entirety and replacing them with the following:

16.1.1. [Reserved]

16.1.6. [Reserved]

Section 5. Amend Section 16 (Termination of Service) by deleting Section 16.3 in its entirety and replacing it with the following:

16.3. Anything in this Ordinance to the contrary notwithstanding, the Town may, in the case of emergency such as fire, contamination, urgent repairs, or other emergencies, temporarily or permanently disconnect and/or discontinue water service without prior notice when determined by the Town Manager or Town Council to be in the best interest of the public health, safety, and welfare.

Section 6. - Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

Section 7. - Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This Ordinance authorizes the Town to disconnect water services if an outstanding balance is more than 15 days past due or if water is being used in an unauthorized manner, provided that written notice is given at least 10 days prior to the disconnection. The Town may disconnect water service after giving 72 hours' notice where a connection was illegally made or a connection is being illegally used. In the event of an emergency, prior notice is not required to disconnect or discontinue water service. This ordinance outlines when disconnections due to nonpayment may occur, and it creates exemptions for occupants with health conditions that will be adversely affected by the disconnection. This Ordinance establishes a \$50.00 service fee for disconnecting water service, an additional \$50.00 service fee for reconnecting water service, and a \$200.00 deposit for accounts that have been disconnected twice within twenty-four months, and it

establishes procedures regarding the use and refunding of the deposit. This Ordinance imposes a fine of \$250.00 for unauthorized connections and unauthorized or illegal use of water, which fine doubles if a second violation is discovered within 12 months of the first violation.

This shall certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Greenwood at a duly-noticed and convened meeting at which a quorum was present on September 4, 2018.

Attest: 
Council Secretary

So certifies:

Mayor