

ORDINANCE NO. 34-19

AN ORDINANCE TO AMEND SECTIONS 1040.02 AND 1040.09 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO CLARIFY RESPONSIBILITY FOR WATER, SANITARY SEWER, AND STORM WATER UTILITY ACCOUNTS AND DECLARING AN EMERGENCY

WHEREAS, the Finance Director reviewed Avon Codified Ordinance §1040.02 entitled “Liability of owners and Lessees; Delinquency; Remedies of City” and §1040.09 entitled “Establishment of Water or Sewer Accounts”; and

WHEREAS, after review, the Finance Director recommends amendments to these sections of the Codified Ordinances to clarify procedures for the collection of delinquent accounts (§1040.02) and to enable tenants in a single-family or duplex residences to open accounts with the Utility Department for water and sanitary sewer service (§1040.09); and

WHEREAS, Council, having considered the recommendation of the Finance Director, finds that amendments to §1040.02 and §1040.09 of the Codified Ordinances of the City of Avon which would clarify procedures for delinquent utility accounts and permit tenants in single-family or duplex residences in the City of Avon to open their own accounts to be in the best interest of the health, safety and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That Section 1040.02 of the Codified Ordinances of the City of Avon which currently reads as follows:

1040.02 LIABILITY OF OWNERS AND LESSEES; DELINQUENCY; REMEDIES OF CITY.

The owner (or lessee) of any private property which is served by the Municipal waterworks system by pipes connected with the system to convey water thereto shall be liable to the City for all water from such system used upon such premises. If a utility charge is not paid within 60 days after it becomes due and payable, the City shall mail notice to the owner or lessee of the premises, notifying said owner or lessee that water service shall be shut off ten days from the date specified in the notice.

(a) If water service is disconnected for non-payment, all delinquencies must be paid in full prior to reconnection.

(b) Any accounts that are delinquent may be certified to the County Auditor, who shall then place the same on the tax duplicate of the County, with interest and penalties allowed by law, to be collected as taxes are collected.

(c) A notice will be sent to each account owner or lessee, via certified mail, return receipt requested, that has a delinquent amount certified to the County Auditor.

(d) Any account certified to the County Auditor must include the following information:

- (1) Name on account;
- (2) Address of service;
- (3) Permanent parcel number;
- (4) Amount certified delinquent.

(e) In addition to the procedures set forth herein for the collection of unpaid and delinquent water bills, the City, through the office of the Law Director, may bring a civil action in court against the delinquent party to enforce collection of any unpaid water bill, unless, in the opinion of the Director of Finance and Law Director, the costs of such litigation outweighs the benefit.

(f) Effective September 1, 2009, only the owner of record of the property being serviced with water or sewer services by the City may open a regular account with the City for said services.

(Ord. 165-97. Passed 11-10-97; Ord. 107-09. Passed 7-13-09.)

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

1040.02 LIABILITY OF OWNERS; DELINQUENCY; REMEDIES OF CITY.

The owner of any property which is served by the Municipal waterworks system by pipes connected with the system to convey water thereto shall be liable to the City for all water from such system used upon such premises. If a utility charge, **i.e., a charge for water, sanitary sewer or stormwater utility**, is not paid within 60 days after it becomes due and payable, the City shall mail notice to the owner of the premises, notifying said owner that water service shall be shut off ten **(10)** days from the date specified in the notice.

(a) If water service is disconnected for non-payment **of a utility**, all delinquencies must be paid in full prior to reconnection, **including the charges to turn off the water and to turn the water back on. In the case of a hardship, the Mayor or the Finance Director may authorize service to be continued or restored during the process of collecting delinquent amounts due the City. For good cause shown, the Mayor is hereby authorized to waive delinquencies in amounts up to \$2,500 for any property. Council shall have authority to audit these waivers annually.**

(b) Any accounts that are delinquent may be certified to the County Auditor, who shall then place the same on the tax duplicate of the County, with interest and penalties allowed by law, to be collected as taxes are collected.

(c) A notice will be sent to each account owner, via certified mail, return receipt requested, that has a delinquent amount certified to the County Auditor. If the notice is returned unclaimed, undeliverable or refused, **the Utilities Department may use any other means of communication to notify the property owner that a delinquent utility amount is being placed on the tax duplicate including notice in a newspaper of general circulation for a period of one (1) week.**

(d) Any account certified to the County Auditor must include the following information:

- (1) Name on account/**property owner**;
- (2) Address of service;
- (3) Permanent parcel number;
- (4) Amount ~~to be certified~~ **to certify** (delinquent **amount**)

(e) **After an account has been certified to the County Auditor for collection, the delinquent party must make payment to the County Treasurer's Office to remove the delinquency from the tax duplicate. This payment must include any administrative service charges added to the tax duplicate by the County.**

(f) In addition to the procedures set forth herein for the collection of unpaid and delinquent water bills, the City, through the office of the Law Director, may bring a civil action in court against the delinquent party to enforce collection of any unpaid water bill, unless, in the opinion of the ~~Director of Finance~~ **Director** and Law Director, the costs of such litigation outweighs the benefit.

(g) Effective with the passage of this ordinance, only the owner of record of the property being serviced with water or sewer services by the City may open a regular account with the City for said services.

Section 2 – That Section 1040.09 of the Codified Ordinances of the City of Avon which currently read as follows:

1040.09 ESTABLISHMENT OF WATER OR SEWER ACCOUNTS.

Only an owner of record of the property to be provided City water or sewer services shall be authorized or permitted to open or establish a regular account for said service charges with the Utility Department. (Ord. 104-09. Passed 7-13-09.)

Shall be amended to read as follows: (New language in bold print; deleted language stricken)

1040.09 ESTABLISHMENT OF A WATER, **SANITARY SEWER AND STORM WATER UTILITY** ACCOUNT.

(a) Only an owner of record of the property to be provided City water **and sanitary sewer service (and stormwater utility charges)** shall be authorized or permitted to open or establish a regular account for said services **and utility** charges with the Utility Department.

Section 3 – That all language contained in Sections 1040.02 and 1040.09 not specifically amended herein shall remain in full force and effect.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements,

including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to amend Sections 1040.02 and 1040.09 to allow the enforcement of collecting water and sewer charges; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared By:
John A. Gasior, Esq.
Law Director