

PROPOSED CHANGES TO CHAPTER 70, ARTICLE III OF THE  
DURHAM CITY CODE

DIVISION 2. INSIDE THE CITY OR UPON VOLUNTARY ANNEXATION INTO THE  
CITY

**Sec. 70-95. - Extensions authorized.**

- (1) Water and sewer main extensions (“main extensions”) and or water and sewer services may be made to serve only properties inside the city or to properties voluntarily annexed into the city, except as provided in Division 3 of this Article. Sections 70-96 through 70-108 apply to properties that are inside the city prior to seeking a water and sewer main extension, while Section 70-109 applies to properties that are outside the city prior to seeking a water and sewer main extension and require voluntary annexation into the city.
- (2) Where a property inside the city limits is located within 500 feet of an existing water or sewer main that can be extended to serve the property, the property shall extend these mains in accordance with the section 70-96 through 70-108 below and shall not be allowed to receive a well or septic permit from the County Health Department. Where only one utility exists or is capable of serving the property within 500 feet, the property shall extend those mains to serve the property but shall be allowed well or septic service permits for the unavailable utility. Measurements of the 500 feet shall be measured along right of way or outfall length as appropriate.

*(Code 1964, § 18-43; Code 1982, § 23-60)*

**Sec. 70-96. - Procedure generally.**

Persons requesting water and sewer main extensions to serve properties inside the city (“project”) shall:

- (1) Make written application to the City of Durham Public Works Department and City-County Planning Department. The City of Durham Public Works Department shall create an extension agreement with the applicant with any necessary additional provisions to the project. Once this is complete, the applicant shall execute an extension agreement with the City of Durham. Inside the existing City Limits, the requirement of an extension agreement may be waived if the City of Durham Public Works Director (“director”) determines that there will be no reimbursables from the extension of utilities.

- (2) Furnish engineering service plans, maps, surveys, profiles, calculations, etc., for the proposed water and sewer extensions, as required by the director;
- (3) Obtain all applicable approvals and permits necessary to construct the project.
- (4) Follow all City of Durham codes, ordinances, standards, specifications, and approved plans applicable to the construction of the project; and
- (5) Meet as built requirements and have streets and required infrastructure opened, graded,, and accepted for maintenance by City Council and/or NCDOT , if required.

*(Code 1964, § 18-44; Code 1982, § 23-61)*

#### **Sec. 70-97. - Opening, grading, etc., of streets.**

Water and sewer service shall not be provided to parcels unless the streets and associated right of way infrastructure adjacent to the parcel, or the streets and associated right of way infrastructure necessary to connect the parcel to the City's existing water and sewer system, have been accepted by City Council for maintenance or the Department of Public Works has obtained adequate security to assure completion of the streets and associated right of way infrastructure.

*(Code 1964, §§ 18-45, 18-56; Code 1982, § 23-62)*

#### **Sec. 70-98. - Engineering work to be done by registered engineer.**

Any engineering work furnished as provided in [section 70-96\(2\)](#) shall be done by a North Carolina registered professional engineer.

*(Code 1964, § 18-46; Code 1982, § 23-63)*

#### **Sec. 70-99. - Fixed charges and deposits for main extensions generally; cost of extension above fixed charge.**

Extensions will be made to the water or sewer system at a fixed charge established by current city policy or as allowed by the City of Durham Charter. The city shall pay the cost of the extension over and above the fixed charge regardless of the size of the main to be constructed. The person requesting a main extension to serve property inside the city shall at a minimum; 1) enter into a extension agreement for service and potential reimbursement 2) deposit, with the Public Works Department 10% of the fixed charge for property frontage involved on each side of the street from the point of utility connection, including the frontage of the property which he or she proposes to furnish with service to proceed with engineering

design of the project; and 3) The entire remaining balance of frontage charges as described in item 2) above shall be deposited before construction of the project is started.

*(Code 1964, §§ 18-49, 18-56; Code 1982, § 23-64)*

### **Sec. 70-100. - No fixed charge for main extensions across school, etc., property.**

A person requesting a main extension to serve properties inside the city shall not be charged as provided in [section 70-99](#) for frontage for water main extensions across property used for Durham Public School purposes, city cemeteries and city parks.

*(Code 1964, §§ 18-50, 18-56; Code 1982, § 23-65)*

### **Sec. 70-101. - Basis for figuring frontage involved in case of intermediate lots.**

The basis, in the case of intermediate lots, for figuring frontage involved, in accordance with [section 70-99](#), shall be as follows:

(1)

If the line was available on February 2, 1948, in front of a 50 foot or less platted lot, the city shall assume the frontage charge for the balance of that lot.

(2)

If the line was available on February 2, 1948, in front of a platted lot of more than 50 feet in width and, the city shall assume the frontage charge up to 50 feet. The person requesting the extension shall pay for the balance of the frontage of such lot.

(3)

If at the date of the request for extension, the property line is not definitely determined or the lot may subsequently be re-subdivided and the lot lines changed, the person filing the request for the extension shall pay all frontage charges for extending the main from the end of the existing main.

*(Code 1964, §§ 18-51, 18-56; Code 1982, § 23-66)*

### **Sec. 70-102. - Basis for figuring frontage involved in case of corner lots.**

The basis, in the case of corner lots, for figuring frontage involved, in accordance with [section 70-99](#), shall be in accordance with [section 70-17](#).

*(Code 1964, §§ 18-52, 18-56; Code 1982, § 23-67; Ord. No. 7198, § 1, 4-21-1987)*

### **Sec. 70-103. - Construction of project to be subject to federal regulations, etc.**

After the necessary deposit based on the fixed frontage charge has been made in accordance with the foregoing provisions of this division, the construction of the project shall

be subject to the availability of funds and materials, to federal government regulations and to the action of the city council.

(Code 1964, §§ 18-53, 18-56; Code 1982, § 23-68)

#### **Sec. 70-104. - Refunds.**

The requirements as to refunds under this division shall be as follows:

(1)

Before future connections are made to that portion of the line constructed under the fixed charge deposit to serve property not owned by the original depositor at the time of the original deposit, the city shall collect the current fixed frontage charge and refund the original depositor the amount originally charged for the subject property. No future charges or refunds will be made for property owned by the original depositor at the time of the original deposit.

(2)

When the fixed frontage charge has been paid for property on which the lot lines have not been definitely determined, at the time these lots are built on or otherwise definitely established, the city shall make the necessary refund to the original depositor in accordance with [section 70-101\(1\)](#) and [section 70-102\(1\)](#).

(3)

If an approved map which establishes a corner lot is available at the time the deposit is made, such map shall be the control for refunds.

(Code 1964, §§ 18-54, 18-56; Code 1982, § 23-69)

#### **Sec. 70-105. - Construction of lines at city's expense without initial deposit.**

The city may, at its own expense and without initial deposit, construct water or sewer lines as follows:

(1)

*Improvements to distribution system.* In the event the city decides to improve the water distribution system or sewer system by closing short gaps, connecting dead ends, or constructing feeder lines, the city may do so at its own expense without deposit; provided, however, that payment of the fixed frontage charge as set forth in this division shall be made to the city for future structures built and connected to this portion of the line.

(2)

*Extensions under proposed paving projects.* In the event a line exists part way in a block, the city may install the line in the balance of the block at its own expense. However, payment of the fixed frontage charge as set forth in

this division shall be made to the city for future structures built and connected thereto.

*(Code 1964, §§ 18-55, 18-56; Code 1982, § 23-70)*

**Sec. 70-106. - Participation by city in outfall sewer line.**

Whether or not the city will participate in the building of an outfall sewer line will be determined by specific action of the city council.

*(Code 1964, § 18-57; Code 1982, § 23-71)*

**Sec. 70-107. - Reference to council of unusual cases.**

Any unusual cases which may develop under this division and not covered by the regulations set forth in the foregoing provisions of this division may be considered individually and referred to the council for its specific action.

*(Code 1964, § 18-58; Code 1982, § 23-72)*

**Sec. 70-108. - Reimbursement of costs for water and sewer construction.**

The city may participate in the costs of water and sewer construction undertaken by developers in accordance with policies and reimbursement rates approved by the city council.

*(Code 1982, § 23-73; Ord. No. 11369, § 1, 3-2-1998)*

**Sec. 70-109. - Utility extension outside the city conditioned upon voluntary annexation into the city.**

City council may approve or disapprove water mains, sewer mains, water service connections, sewer service connections, or both, ("utility service") in its discretion to property outside the city limits petitioning for such service upon the conditions established by this Section. Utility service shall be provided pursuant to utility extension agreements approved by city council, which shall be brought to the city council on such schedule as is determined appropriate by the city manager. Utility extension agreements shall include those terms and conditions that the city council determines, in its discretion, to be in the interests of the city, and that address potential impacts of the proposed development on the city and/or its citizens. Such terms and conditions may address, in addition to the water and/or sewer service requested, other utilities, and associated regulations within the city, such as stormwater. At a minimum, utility extension agreements shall ensure that:

(1)

Water, sewer, and stormwater infrastructure is constructed to fully address all impacts of the development, and, in addition, to meet city requirements, which may include but are not limited to the sizing of infrastructure to best meet the city's needs for the efficient and effective provision of services. Where approved by the city, payments toward the construction of shared infrastructure to be built by the city or a private developer may be accepted in lieu of construction of such infrastructure by the petitioning property;

(2)

Annexation of properties receiving utility service shall be required. A valid petition for annexation, with supporting materials as required by the city, shall be submitted on a timetable directed by the city, and the petition and supporting materials shall be updated as necessary to maintain the validity of the petition until final action on the annexation is taken by the city council. The city's obligations under an extension agreement shall be effective upon the date an annexation becomes effective, unless the council specifically approves an earlier date;

(3)

Annexed property shall be subject to all city regulations, requirements, standards, and policies existing as of the effective date of the annexation; to zoning as determined by the city council; and to capital facilities and impact fees in accordance with city schedules for all development within the annexed property, whether constructed before or after annexation;

(4)

The utility extension and cost of compliance with the extension agreement shall be at no cost to the city and, among other things, all costs of design, environmental studies, permitting, construction, and legal costs shall be borne by the property owner, unless the city determines to participate in all or a portion of the costs;

(5)

Infrastructure that is connected to the city system, and the associated underlying land, shall be dedicated to the city as may be required by city policy;

(6)

The utility extension agreement, after approval, and shall be binding on future owners of the property.

The above requirements do not apply to utility agreements with other governmental units. The city manager or designee shall develop policies and procedures to implement these requirements, as well as other necessary requirements.

## DIVISION 3. OUTSIDE THE CITY WITHOUT ANNEXATION INTO THE CITY

### **Sec. 70-127. - Agreement with Town of Cary relating to water and sewer service areas, etc.**

The city council of the city hereby adopts the ordinance from which this section is derived [Ord. No. 10900, adopted August 19, 1996] approving the agreement entitled "Agreement Between Cary and Durham Defining Water and Sewer Service Areas, Annexation Boundaries, and Conditions for the Purchase of Water," and authorizes the ordinance from which this section is derived to be codified as this section, and to be considered also as a resolution in compliance with G.S. 160A-461.

*(Code 1982, § 23-83.1; Ord. No. 10900, 8-19-1996)*

### **Sec. 70-128. - Agreement with Town of Morrisville relating to water and sewer service areas, etc.**

The city council of the city hereby adopts the ordinance from which this section is derived [Ord. No. 11246, adopted September 2, 1997] approving the agreement entitled "Agreement between Morrisville and Durham Defining Water and Sewer Service Areas and Annexation Boundaries" and authorizes the ordinance from which this section is derived to be codified as this section and to be considered also as a resolution in compliance with G.S. 160A-461.

*(Code 1982, § 23-83.2; Ord. No. 11246, 9-2-1997)*

### **Sec. 70-129. - Conditions to be complied with in extending city water and sewer service outside the city.**

City council may approve or disapprove water mains, sewer mains, water service connections, sewer service connections, or both, ("utility service") in its discretion to property outside the city limits petitioning for such service upon the conditions established by this Section. Utility service shall be provided pursuant to utility extension agreements approved by city council, which shall be brought to the city council on such schedule as is determined appropriate by the city manager. Utility extension agreements shall include those terms and conditions that the city council determines, in its discretion, to be in the interests of the city, and that address potential impacts of the proposed development on the city and/or its citizens. Such terms and conditions may address, in addition to the water and/or sewer service requested, other utilities, and associated regulations within the city, such as stormwater. The city water distribution system and sewage collection system shall not be extended beyond the limits of the city or without voluntary annexation into the city except:

- (1) Pursuant to an effective and valid contract, agreement, complete residential building permit submission and approval, or city council resolution entered into by city council or passed by city council prior to October 15<sup>th</sup> 2012; or
- (2) Water to properties within the legal boundaries of Research Triangle Park, NC; or
- (3) To public properties; or
- (4) To extensions for water mains extended outside the city to complete a loop in the water distribution system to assure adequate water quality or pressure to an area inside the city; or
- (5) To individual properties outside the city for which an assessment for a main extension has already been levied; or
- (6) To properties with verified water supplies-of unsatisfactory quality or a verified existing health hazard from an on-site sanitary sewer system approved by the city council pursuant to subsection (a) of this section;

(a)

Any extension of the water distribution system and sewage collection system to serve properties with verified water supplies of unsatisfactory quality or a verified, existing health hazard from an on-site sanitary sewer system shall be made only after approval of such extension by the city council. Any such extension shall be made in accordance with the following conditions:

(1)

The city shall bear no part of the construction cost of extensions beyond the city limits to serve a school or industry. No refund policy shall apply to such lines. The city may participate in the construction cost of any extension to serve properties with verified water supplies of unsatisfactory quantity or quality or a verified, existing health hazard from an on-site sanitary sewer system, provided such extension is made as a result of receiving a sufficiently signed petition under the provisions of Article 7, [Section 77](#), paragraph (7) of the Durham City Charter. The question of city participation shall be decided by the city council for each individual project,

but in no case shall assessments be less than the standard rate for extensions outside the city;

(2)

Construction of authorized extensions to approved properties with verified water supplies of unsatisfactory quality or a verified, existing health hazard from an on-site sanitary sewer system, shall be in accordance with all applicable policies, standards and specifications of the city;

*(Code 1964, § 18-60; Ord. No. 4967, §§ 1, 2, 8-7-78; Ord. No. 5255, § 1, 9-4-79; Ord. No. 5334, § 1, 2-18-80; Ord. No. 5335, § 1, 2-18-80; Ord. No. 6247, § 1, 12-19-83; Ord. No. 6833, §§ 1—5, 11-18-85; Ord. No. 13479, § 1, 9-17-2007; Ord. No. 13574, Pt. 1, 4-7-2008; Ord. No. 14063, § 1, 10-18-2010)*

**Secs. 70-130—70-154. - Reserved.**