



Date: October 22, 2013
To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Donald F. Greeley, Director, Water Management

Subject: Ordinance Amendment: Provisions Concerning Unauthorized Water and Sewer Use and Tampering or Damage to Water and Sewer Infrastructure

Executive Summary

The City ordinance contains provisions to address unauthorized water and sewer use as well as damage and tampering with infrastructure. The North Carolina General Assembly recently enacted Session Law 2013-88 which increases criminal penalties for interfering/tampering with water lines. The proposed amendments incorporate the additional authority granted by the session law into the City ordinance. Once adopted, the City's ability to deter damage and tampering and/or obtain equitable compensation from those who use water and/or sewer services without payment and/or damage City assets will be significantly enhanced.

Recommendation

The department recommends that the City Council adopt an ordinance amending Sections 70-1 and 70-26 and deleting Section 70-3 of the City's ordinance with an effective date of December 1, 2013.

Background

During the recent economic downturn, many utilities in the state have noted an increase in tampering with water and sewer systems to obtain services without payment. The North Carolina State Legislature responded to requests from various utilities for increased assistance with deterring and obtaining compensation for tampering with infrastructure by passing Session Law 2013-88 which applies to water, electric, gas, and steam utilities. Adopting the proposed ordinance amendment, which mirrors the new state law, will provide additional tools to the City to recover funds. The City bears the costs of damage and loss and if funds are not recovered, they will be reflected in future water and sewer rates. The state law clarifies and expands the rights of recovery formerly covered in Section 70-26 which was limited to turning on water after lawful disconnection.

Also, although the City Ordinance contained a provision against tampering or damage to sewer infrastructure, there was no explicit reference to water; this is remediated in the amendment to Section 70-1. Furthermore, that section did not spell out the ability to demand compensation for the City's economic loss. While a civil action could be brought against the customer, this often involves expenditure of more resources than could reasonably be recovered. The authority to assess a customer for damage and place the charge upon the water bill will facilitate the collection process.

Section 70-3 prohibiting unauthorized tapping is eliminated and is incorporated under the new Section 70-26(a)(2).

Issues and Analyses:

From time to time the City encounters incidents of damage to infrastructure and/or customers who are discovered to have received water/sewer services by unauthorized tapping into lines. Under the current ordinance, a civil action could be brought against the customer or perpetrator. However, this often involves expenditure of more resources than could reasonably be recovered. Any unreimbursed cost of providing water and sewer to those not paying for services or damaging infrastructure places an unnecessary hardship on customers that do follow the rules by compelling them to pay to increased rates to cover the expenditures.

Alternatives

- Make no changes which could limit the ability of the City to be compensated for theft of services or damage to infrastructure.
- Adopt the proposed ordinance with additions or deletions which is what we recommend.
- Adopt the proposed ordinance with other additions or deletions.

Financial Impacts

At this time the expenditures to remediate damage to the system are not being identified in the accounting system so it is not possible to quantify the financial impact. However, any recovery will have a positive effect. Also, it is likely the increased penalties allowed by the new law would be an incentive for prompt payment of damages assessed and a deterrent for damage or theft.

SDBE Summary:

The Ordinance to Promote Equal Opportunity in City Contracting does not apply to this item.

Attachments

Ordinance amending Sections 70-1, 70-3, and 70-26.
Session Law 2013-88