

ORDINANCE AMENDING DURHAM CITY CODE SECTIONS GOVERNING UNAUTHORIZED WATER AND SEWER USE AND TAMPERING OR DAMAGING WATER AND SEWER INFRASTRUCTURE

WHEREAS, the City of Durham has the responsibility of providing water and sewer utilities to its citizens; and

WHEREAS, the cost of providing water and sewer utilities is allocated through fees and charges; and

WHEREAS, equity for ratepayers includes recovering costs of theft of services and damages to infrastructure from the responsible parties; and

WHEREAS, the North Carolina State General Assembly has recently revised allowable penalties for unauthorized use of utilities and damage to utility infrastructure; now therefore,

THE CITY COUNCIL OF THE CITY OF DURHAM ORDAINS:

Sec. 1. Existing Section 70-1 shall be amended as follows:

Section 70-1 Damaging public water and/or sewer system, defacing property

It shall be unlawful for any person maliciously, willfully, or negligently to break, damage, destroy, uncover, deface or tamper with the public water and/or sewer system. In addition to any other remedies available by law, such person shall indemnify the City for any damages or injury to the water and/or sewer system for its construction, maintenance or repair.

Sec. 2. Existing Section 70-26 shall be deleted in its entirety and replaced as follows:

Section 70-26 Unauthorized use of city water and sewer services and infrastructure:

(a) It shall be unlawful for any person to willfully, with intent to injure or defraud, commit any of the following acts:

- 1) Obstruct, alter, bypass, tamper with, injure or prevent the action of a meter or other instrument used to measure or register the quantity of water passing through such meter by a person other than an employee or authorized contractor of the City.
- 2) Make any connection or reconnection with the water or sewer pipes of the City, turn on or off or in any manner interfere with any valve or other portion of the City water and sewer infrastructure, and connected with City service or other pipes, for any purpose without first procuring from the City a written permit to turn on or off such valve, pump, or other appliance, or to make such connection or reconnections, or to interfere with the valves, or other appliances of such, as the case may be.
- 3) Retain possession of or refuse to deliver any meter or other appliance which may be leased or rented by any person, for the purpose of furnishing water through the same, or sell, lend or in any other manner dispose of the same to any person other than the City.

- 4) Reconnect water or sewer connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the City.
- (b) Any meter found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the water consumed or which would cause the water to be diverted from the recording apparatus of the meter shall be prima facie evidence of an intent to violate and of the violation of this section by the person in whose name such meter is installed or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted water.
- (c) Criminal violations of this section shall be punishable as follows:
 - 1) A violation of this section is a Class 1 misdemeanor.
 - 2) A second or subsequent violation of this section is a Class H felony.
 - 3) A violation of this section that results in significant property damage or public endangerment is a Class F felony.
 - 4) Unless the conduct is covered under some other provision of law providing greater punishment, a violation that results in the death of another is a Class D felony.
- (d) Whoever is found in a civil action to have violated any provision hereof of this section shall be liable to the City in triple the amount of losses and damages sustained or five thousand dollars (\$5,000), whichever is greater.
- (e) Nothing in this section shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards and all City of Durham requirements.

Sec. 3. Existing Section 70-3 Unauthorized tapping, etc. of water or sewer mains or connections shall be deleted in its entirety.

Sec. 4. Where this ordinance strikes through text, that text is deleted. Where this ordinance underlines text, that text is added.

Sec. 5. This ordinance takes effect December 1, 2013 and applies to offences committed on or after this date.