

ORDINANCE NO. 2014 – 262

**AN ORDINANCE TO AMEND PART 8, PUBLIC UTILITIES,
OF THE CITY OF RALEIGH CODE OF ORDINANCES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:

Section 1. Section 8-1002, "FUNCTIONS AND DUTIES OF THE DEPARTMENT," of the City of Raleigh Code of Ordinances is hereby deleted in its entirety and replaced with the following:

Sec. 8-1002.

FUNCTIONS AND DUTIES OF THE DEPARTMENT.

The functions and duties of the department include the following:

- (a) Provision of management, staff assistance and accounting records support for the *Raleigh Department of Public Utilities*. Maintenance and operation at water treatment plants and laboratories to provide adequate quantities of potable water for residential, commercial and industrial use and to provide adequate water for fire protection purposes; to supply pure water free of pathogenic organisms, harmful chemicals, objectionable materials and excessive controls which meets all regulatory requirements of state and federal *agencies*.
- (b) Construction, operation, maintenance, repair and upgrade of the water distribution system which includes the water main grid system, water transmission mains, valves, fire hydrants and other system components.
- (c) Maintenance and operation of a water pollution control system by transporting, treating and disposing of waste water from the *City* and from other municipalities contracting with the *City* for such services.
- (d) Construction, maintenance and operation of the sewage collection system of the *City*, including installing, replacing, repairing, rodding, cleaning and inspecting sewer mains, sewer outfalls and sewer interceptors, and the maintenance and repair of manholes and easements.
- (e) Installation, maintenance, repair, and replacement of water meters, including the installation and repair of water and sewer lateral services in accordance with §8-2003 of this Code and the **Raleigh Public Utilities Handbook**.
- (f) Reception, maintenance and issuance of all materials used by the department's operating divisions and the maintenance of field operating facilities.

- (g) Preparation and implementation of a Water Conservation Plan pursuant to State law and regulations.
- (h) Construction, operation, maintenance, repair, and upgrade of the reuse water distribution system which includes the reuse water transmission mains, valves, and other system components; permitting the use of the reuse water distribution system pursuant to State law and regulations.
- (i) Preparation of, including periodic updates of, and enforcement of the **Raleigh Public Utilities Handbook** that is approved by Council.
- (j) Regulation of the *City's* lakes to ensure a safe and adequate supply of water as authorized in Part 9, Chapter 5 of this Code.

Section 2. Section 8-2001, "DEFINITIONS," is hereby deleted in its entirety and replaced with the following:

Sec. 8-2001.
DEFINITIONS.

As used in this chapter, the *following* terms *shall* have the meanings ascribed to them respectively:

Adjacent lot.

Adjacent lot shall mean that parcel of land that shares a common boundary and/or a common right-of-way with an existing lot seeking sewer service and/or water service; for the purposes of sewer service, an adjacent lot is a parcel of land located upgradient of the existing lot.

Dedicators.

Dedicators shall mean and include the *person* owning or constructing any private *utility system* being dedicated to the *City*.

Developer.

Developer shall mean a *person* who makes an application to the *City* for the *City's* approval of a site plan or subdivision.

Development.

Development shall mean any human-caused change to improved or unimproved real estate including but not limited to, constructing or changing any building or other structure.

Existing lot.

Existing lot shall mean any lot that has been recorded in the register of deeds of the county in which the land is located prior to the application for connection to City utilities.

Major water and sewer mains.

Major water and sewer mains or major water and major sewer mains shall mean those water and/or sewer lines which are twelve (12) inches in diameter or greater.

Minor water and sewer mains.

Minor water and sewer mains or minor water and minor sewer mains shall mean those water and/or sewer lines which are less than twelve (12) inches in diameter.

Person.

Person shall mean any individual, firm, partnership, association, institution, corporation, municipalities and other political subdivisions, and governmental agencies.

Structure.

Structure shall mean anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, recreational, business, commercial, agricultural, institutional or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, fences, decks, garages, swimming pools, hot tubs, children's play sets, barbeque pits, tennis courts, signs, walls, heating, ventilation and air conditioning units, storage tanks, sheds, docks, mooring areas, and other accessory construction.

Tap size.

Tap size shall mean the nominal diameter of the connection of the water service installed between a water meter assembly and the water main connected to the water utility system of Raleigh without regard to the configuration of that water assembly or ownership of the water meter assembly, service or water main.

Utility system, utility mains.

Utility system or *utility mains* shall mean and include water mains, sewer mains and reuse water mains (individually or collectively as determined by the context), and shall include all pipes, valves, valve boxes, hydrants, water service stubs, sewer service stubs, cleanouts, meters and other appurtenant fixtures, equipment, and apparatus connected to and forming a part of the main water, sewer, or reuse water pipe lines and systems or both, and all appliances necessary and convenient thereto. The utility lines dedicated to the *City* as public shall include only main distribution pipes, valves, hydrants and other apparatus, fixtures and equipment forming a part of the lines laid in public streets, roads, highways and alleys or across *City* utility or sanitary sewer easements on private property, and shall not include services leading from mains to building connections on private property and shall not include the water, sewer or reuse water lines within any residences or other privately owned building or structure.

Water service stubs and sewer service stubs.

Water service stubs and *sewer service stubs* shall mean those portions of the water service, reuse water service and sewer service pipes which connect to the *City's* water and sewer mains and extend from the mains to the boundaries of public easements and rights-of-way with private property.

Section 3. Any reference to the "Director of Public Utilities" in Section 8-2002, CONNECTING WITH WATER PIPES, is hereby deleted and replaced with the "*Raleigh Director of Public Utilities* or his designee." The following sentence shall be inserted after the second sentence in Section 8-2002: "The size of the service shall be determined by the applicant."

Section 4. Section 8-2003, REPLACEMENT OF WATER OR SEWER SERVICE STUBS, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2003.

MAINTENANCE, REPAIR AND REPLACEMENT OF WATER AND SEWER SERVICE STUBS FROM MAINS TO PROPERTY LINES.

- (a) Owners of *property* served by sewer stubs shall be responsible for the maintenance necessary to keep the sewer stubs clean and sanitary and continually functioning.
- (b) The replacement and/or repair of water and sewer service stubs may be caused by direction of the *Raleigh Director of Public Utilities* or his designee; by application of *owners* of the *property* served that is filed with the *Raleigh Director of Public Utilities* or his designee; or by direction of the plumbing inspector.

- (c) In the event of the paving or widening of streets, or the raising or lowering of the grade of a street, or in the installation of curbs or gutters and/or sidewalks, or in the case of the installation of new water or sewer lines initiated by the public, all *water and sewer service stubs may* be replaced so as to meet the standards prescribed by the North Carolina Plumbing Code.
- (d) Applications for the replacement of existing water stubs by owners of the property served *shall* be considered only in the event the service stub is leaking, needs enlarging or is delivering an insufficient quantity of water or the property owner replaces the galvanized service from meter box to house. In the case of an application as a result of an insufficient quantity of water only those service stubs delivering less than ten (10) gallons per minute (gpm) *shall* be considered for renewal or repair at no charge to the *property owner*.
- (e) There *shall* be no charge for replacement or repair of defective stubs as provided by this §8-2003, except when the existing service stub is enlarged. If an existing galvanized water service stub or terra cotta sewer service stub is enlarged, a fee *shall* be charged equal to the difference between the fee corresponding to the existing service stub size and the fee corresponding to the proposed service stub size as set forth in §8-2039. If a copper water service stub or cast-iron sewer service stub is enlarged a fee *shall* be charged for the proposed service stub size as set forth in §8-2039.
- (f) Replacement of water service stubs *shall* extend from the main to the property line and *shall* conform to the provisions of this Code. Water meters *shall* be relocated as necessary. Replacement of sewer service stubs *shall* extend from the main to the property line and *shall* conform to the provisions of this Code.

Section 5. The following changes are made to Section 8-2004, RESPONSIBILITY FOR MAKING CONNECTIONS:

- (1) The title of Section 8-2004 is hereby deleted and replaced with "CONNECTIONS TO THE UTILITY SYSTEM."
- (2) Any reference to the "Director of Public Utilities" in Section 8-2004 is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."
- (3) The existing language in Section 8-2004 *shall* be labeled "(a)" and the following subparagraphs (b) and (c) *shall* be added following the existing language:
 - (b) Owners of existing lots who desire to connect to the *City's water utility system* must extend a water main across the entire road frontage to the next adjacent lot.

- (c) Owners of existing lots who desire to connect to the *City's sewer utility system* must extend a sewer main to serve all adjacent lots.

Section 6. The following changes are made to Section 8-2005, METER REQUIREMENTS; PLACEMENT OF METERS:

- (1) Any reference to the "Director of Public Utilities" is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."
- (2) The term "Department of Inspections" is hereby deleted and replaced with the term "*Office of Development Services*."
- (3) The words "initially" and "initial" are hereby deleted in the note following the fee schedule.

Section 7. Section 8-2006, ADDITIONAL METERS; COMMON CONNECTIONS; ALLOWED USES is hereby deleted in its entirety and replaced with the following:

Sec. 8-2006.

ADDITIONAL METERS; COMMON CONNECTIONS; ALLOWED USES.

Additional meter *locations*, water connections and/or sewer connections, in compliance with the *City's* Unified Development Ordinance if located within the jurisdiction of the *City*, or County zoning and subdivision ordinances if located within the jurisdiction of the County, *may* be permitted. A common water connection, sewer connection and/or meter will be permitted to serve more than one (1) building of the following categories as those terms are used in the *City's* Unified Development Ordinance.

- (a) Group living developments;
- (b) Townhouse developments;
- (c) Unit-ownership (condominium developments);
- (d) Overnight lodging;
- (e) Hospitals;
- (f) Warehouses, industrial buildings (under one (1) ownership and engaged in one (1) business only);
- (g) Schools, colleges, community colleges or universities;
- (h) Manufactured home developments;

- (i) Shopping centers;
- (j) Places of worship;

Section 8. The following changes are made to Section 8-2007, COMMON METERS AND CONNECTIONS; REQUIREMENTS:

- (1) The term "Director of Public Utilities"" is hereby deleted and replaced with the term "*Raleigh Director of Public Utilities* or his designee."
- (2) The term "Department of Public Utilities" is hereby deleted and replaced with the term "*Raleigh Department of Public Utilities*."
- (3) The last sentence in subparagraph (d) of Section 8-2007 is hereby deleted and replaced with the following sentence: "*The Raleigh Director of Public Utilities* or his designee *may* enter the premises of any water or sewer user to examine the pipes and fixtures, the quantity of water being used and the manner of its use, to take meter readings and to make meter repairs."
- (4) Subparagraph (e) of Section 8-2007 is hereby deleted in its entirety and replaced with the following:
 - (e) Should a building within such a multiple constructed area be conveyed to a new owner, or should a multiple constructed area be subdivided, the *City shall* require a separate water and sewer connection from that building to the public main. Each development in any of the above categories *shall* have a fire protection plan reviewed by the *Raleigh Department of Public Utilities* and approved by the Fire Department prior to the issuance of a building permit and prior to the installation of water connections or the extension of existing water installations.
- (5) The term "Director of Public Utilities" in the existing subparagraph (f) of Section 8-2007 is hereby deleted and replaced with the term "*Fire Chief*."

Section 9. Section 8-2008, WELLS, PERMIT REQUIRED is hereby deleted in its entirety and replaced with the following:

Sec. 8-2008.
WELLS; PERMIT REQUIRED.

No well *shall* be installed within the *City* without first securing a well permit from Wake County and plumbing and electrical permits from the *City's Office of Development Services* for such installation.

Section 10. Section 8-2009, NEW OR REPLACEMENT WATER AND SEWER SYSTEMS TO BE FLOOD-RESISTANT," is hereby amended by deleting the term "one (1) foot" in Section 8-2009(c) and replacing it with "three (3) feet." The term "regulatory flood protection" in Section 8-2009(c) is hereby deleted and replaced with "100-year flood."

Section 11. The following changes are made to Section 8-2010, EMERGENCY DISCONTINUATION OF SERVICE AND REPAIRS:

- (1) The reference to §10-6082 in the first sentence is hereby deleted and replaced with "§8-2003 and the **Raleigh Public Utilities Handbook**."
- (2) The term "Public Utilities Director" is hereby deleted and replaced with the term "*Raleigh Director of Public Utilities* or his designee."
- (3) The term "Department of Public Utilities" is hereby deleted and replaced with the term "*Raleigh Department of Public Utilities*."
- (4) The term "twelve (12)" in the third sentence is hereby deleted and replaced with the term "forty-eight (48)."
- (5) The last two sentences are hereby deleted and replaced with the following sentences: "The cost of any repairs performed by the *City* shall be charged to the property owner. Failure to pay the *City's* repair costs may result in discontinuation of service until such costs are paid."

Section 12. The following changes are made to Section 8-2011, PAYMENT OF FEES AND CHARGES:

- (1) The first sentence of the first paragraph of Section 8-2011 is hereby deleted and replaced with the following: "Any *person* using the *utility system* hereby contracts with the *City* to pay all required permits, fees, and charges as required by laws, ordinances, and resolutions."
- (2) The reference to the "Utility Billing Office" in the first sentence of the second paragraph of Section 8-2011 is hereby deleted and replaced with "*Office of Development Services*."

Section 13. Section 8-2012 is hereby deleted in its entirety and replaced with the following:

Sec. 8-2012.

ACCESS TO AND OBSTRUCTIONS OF THE UTILITY SYSTEM AND EASEMENTS.

- (a) No *person* shall open, enter into, place, or allow anything to be placed in any manhole, hydrant, valve box, meter box or any other appurtenances of the *City's*

water or sanitary sewer system without written approval from the *Raleigh Director of Public Utilities* or his designee.

- (b) No *person shall* damage, obstruct, or cover any manhole, hydrant, valve box, meter box or any other appurtenances of the *City's* water or sanitary sewer system.
- (c) No *person shall* plant trees, shrubs, or other plants within a water or sewer easement without prior written approval from the *Raleigh Director of Public Utilities* or his designee. Shallow-rooted ground cover material *may* be planted and maintained within the easement area provided that all risk of damage to any such improvements caused by maintenance or repair of the sewer line and appurtenant facilities *shall* be with the property owner. Further, the *City* is authorized to remove and keep removed from the easement all trees, vegetation, and other obstructions as necessary to maintain, repair or protect the sanitary sewer line or lines and appurtenances.
- (d) No *person shall* place any part of a structure or any permanent equipment within a water or sewer easement without prior written approval from the *Raleigh Director of Public Utilities* or his designee.
- (e) Any unapproved structure, equipment, or landscaping located within a water or sewer easement, that limits access in the event of an emergency, will be removed by the *Raleigh Department of Public Utilities* at the property owner's expense. In times of nonemergency, property owners will be notified to remove unapproved structures, equipment, or landscaping located within a water or sewer easement within forty-five (45) days of notice. Any structures, equipment, or landscaping not removed by the property owner within the specified time, *may* be removed by the *Raleigh Department of Public Utilities* at the property owner's expense.
- (f) Violation of this section is a misdemeanor and in addition *may* be punished under §8-2014 of the *City Code*.

Section 14. Section 8-2013, INJURY TO SYSTEMS; REMOVING, DAMAGING, BREAKING, ETC., is hereby deleted in its entirety and replaced with the following:

Sec. 8-2013.

DAMAGE TO UTILITY SYSTEM; UNAUTHORIZED USE.

It *shall* be unlawful for any *person* to alter, remove, damage, or interfere with any part of the *utility system*. Provided, it *shall* further be unlawful for any *person* to turn off or discontinue or turn on water, sewer or reuse water service to any part of the *utility system* without the written consent of the *Raleigh Director of Public Utilities* or his designee.

Section 15. Section 8-2014, ENFORCEMENT PROCEDURE, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2014.
ENFORCEMENT PROCEDURE.

- (a) Whenever the *Raleigh Director of Public Utilities* or his designee finds that any *person* has violated or is violating this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, the *Raleigh Director of Public Utilities* or his designee *may* serve upon such a *person* a written notice stating the nature of the violation. If requested by the *Raleigh Director of Public Utilities* or his designee, a plan for the satisfactory correction thereof *shall* be submitted to the *Raleigh Director of Public Utilities* or his designee within the timeframe specified in the enforcement policy adopted in accordance with subsection (d) below. Submission of this plan does not relieve the *person* of liability for any violations occurring before or after receipt of the notice of violation. In the event of an emergency that requires the *City* to take immediate action to correct the violation, the *City* is not required to provide an opportunity for the violator to correct the violations and *may* assess penalties and costs pursuant to this section without prior notice.
- (b) Any *person* who is found to have failed to comply with any provision of this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, *shall* be subject to a civil penalty as follows:
 - (1) Residential meter obstruction, alteration, bypass or tampering, first violation, \$500.
 - (2) Residential meter obstruction, alteration, bypass or tampering, repeat violation within the previous five years, \$5,000.
 - (3) Non-residential meter obstruction, alteration, bypass, tampering, \$5,000.
 - (4) Make any connection or reconnection with the water system without first procuring from such *person* a written permission, \$5,000.
 - (5) Retain possession of or refuse to deliver a hydrant meter assembly issued by the *City* after authorized use ends, \$5,000.
 - (6) Turn on or off or in any manner interfere with any valve without written permission, \$5,000.
 - (7) Any other violation not specifically listed herein, \$500 per violation.
 - (8) In the case of a violation of Chapter 14, Section 151 of the North Carolina General Statutes (*i.e.*, willful or fraudulent interference with the utility system to obtain utility service) that causes damages to the *utility system*

or other loss to the *City*, the civil penalty *shall* be subject to a penalty three times the amount of losses and/or damages caused by the violation or \$5,000, whichever is greater.

The notice of the civil penalty assessment *shall* be issued in writing and *shall* set forth with reasonable care the basis of the civil penalty and any administrative costs and the costs to the *City* of rectifying the noncompliance that are assessed.

- (c) Any *person* violating any section of this article must pay to the *City* all expenses incurred by the *City* in repairing any damage to the *utility system* caused in whole or in part by such violation and any expense incurred by the *City* in investigating such violation.
- (d) The *Raleigh Director of Public Utilities* *shall* prepare an enforcement policy to implement this section which *shall* be submitted to the *City Council* for approval.
- (e) From and after the expiration of the time period specified in the notice of violation issued pursuant to subsection (a) above of this section for correcting a violation of this article, each subsequent day that the violation continues in existence *shall* constitute a separate and distinct offense subject to additional civil penalties.
- (f) Any appeal from a notice of violation or civil penalty assessment *shall* be made in writing to the *Raleigh Director of Public Utilities* within 30 (thirty) days of receipt of the notice of violation or civil penalty assessment issued pursuant to this section. The *Raleigh Director of Public Utilities* *shall* use all reasonable efforts to notify the appellant in writing of his or her decision within 60 (sixty) days of receipt of the notice of appeal pursuant to the enforcement policy adopted in subsection (d) of this section.
- (g) All notices required by this subsection *may* be served by certified mail or hand-delivery to the violator; certified mail or hand-delivery to the owner of the property in violation; or posting the notice at the property in violation. When service is made by certified mail, a copy of the notice *may* also be sent by First Class U.S. Mail. Service *shall* be deemed sufficient if the notice sent by First Class U.S. Mail is not returned by the U.S. Post office seven (7) days after mailing.
- (h) If payment is not received or equitable settlement reached after 30 (thirty) days after demand for payment is first made, the matter *shall* be referred to the City Attorney for institution of a civil action in the name of the *City* in the appropriate division of the general court of justice of Wake County for recovery of the penalty. If payment is not received or equitable settlement has not been reached within the specified time period, the *City* *may* interrupt water and sewer service to

the property until such time that payment is received or equitable settlement has been reached.

- (i) Any *person* who violates any of the provisions of this article, any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or who undertakes or continues any alteration, extension or construction of the *utility system* or part thereof without first obtaining a permit or written permission or who undertakes or continues any alteration, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both *shall* be guilty of a misdemeanor punishable by imprisonment to the maximum number of days prescribed by law.
- (j) Whenever the *City Council* has reasonable cause to believe that any *person* is violating or threatening to violate any of the provisions of this article, any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or is undertaking or continuing any alteration, extension and construction of the *utility system* without first obtaining a permit or written permission, or is undertaking or continuing any alterations, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both, the *City may*, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the *City* for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection *shall* not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Code. The terms "undertakes" or "undertaking" as used in this section means the initiating of or continuing of or being financially responsible for any activity or phase of activity which results in the extension, construction, or alteration of any part of the *utility system* of the *City*.
- (k) The penalties and enforcement provisions established by this article *may* be applied in addition to or in lieu of the penalties established by other sections of this Code and applicable ordinances. The remedies provided for in this article are not exclusive. The *Raleigh Director of Public Utilities* or his designee *may* take any, all, or any combination of these actions against a violator.

Section 16. Section 8-2015, DUTY TO REPORT DAMAGE, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2015.
DUTY TO REPORT DAMAGE.

Every *person* who observes damage to any manhole, hydrant, valve or meter or to any other part of the *utility system* has a duty to report the damage to the *Raleigh Department of Public Utilities*.

Section 17. Section 8-2016, RALEIGH PUBLIC UTILITIES HANDBOOK, is hereby amended by inserting a comma after "City Clerk's Office" and replacing the words "and in the Public Utilities Department" with "*Raleigh Department of Public Utilities* and online at the *City's* website."

Section 18. The following changes are made to Section 8-2031, ASSESSMENT FOR EXTENSIONS:

- (1) The title of Section 8-2031 is hereby deleted and replaced with "ASSESSMENT FOR EXTENSIONS AND REPLACEMENTS."
- (2) The word "lateral" is hereby deleted wherever it appears.
- (3) The reference to the "engineering department of the *City*" is hereby deleted and replaced with "*Raleigh Public Works Department*."
- (4) The last sentence of the section is hereby deleted.

Section 19. Section 8-2032, ASSESSMENT; CITY TO SHARE COST OF OVERSIZED LINES, is hereby amended by replacing the reference to "Director of Public Utilities" with "*Raleigh Director of Public Utilities* or his designee" and by inserting the following sentence immediately following the only sentence in Section 8-2032: "The property owner will be assessed the cost of the six-inch water main and/or the eight-inch sewer main based on the prevailing assessment rates."

Section 20. The following changes are made to Section 8-2033, ASSESSMENTS; PROVISIONS FOR REPLACEMENT SERVICE:

- (1) The words "or deteriorating pipe" are inserted within the parenthetical phrase in Section 8-2033 immediately following the word "water."
- (2) The word "new" is hereby deleted.
- (3) The word "existing" is inserted immediately before the reference to "inadequate mains" and "at current prices" is inserted immediately following the reference to "inadequate mains."
- (4) The third "for" is hereby deleted and replaced with "the cost of."

Section 21. The following changes are made to Section 8-2034, ASSESSMENTS; CORNER LOT PROVISIONS:

- (1) The words "When the basis for assessment is the front footage method, lots" in the first sentence of this section are hereby deleted and replaced with the word "lots."
- (2) The words "is already served by" in subparagraphs (b) and (d) are hereby deleted and replaced with "abuts."
- (3) Subparagraph (e) is hereby deleted in its entirety and replaced with the following:
 - (e) A property parcel is hereby exempted from any duplicating water and/or sewer assessment by the *City* of Raleigh if all of the following conditions exist:
 - (i) the parcel is zoned for residential use;
 - (ii) the parcel is not eligible for subdivision pursuant to *City* Code;
 - (iii) the parcel contains an existing single-family residence at the time of project direction by *City Council*;
 - (iv) the parcel abuts an existing six-inch water main and/or an eight-inch sewer main of the *City* of Raleigh.

Section 22. Section 8-2035, ASSESSMENTS; PROVISIONS FOR DUPLICATING SERVICE, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2035.

ASSESSMENTS; PROVISIONS FOR DUPLICATING SERVICE.

- (a) When a duplicating water or sewer service is extended to a lot not at the intersection of two (2) streets but with adequate (eight-inch sewer or six-inch water) existing service within a public utility easement, assessment of the cost of the duplicating service *shall* be limited to the frontage of the lot abutting the right-of-way or easement in which the duplicating service is installed in excess of one hundred fifty (150) feet. The exemption *shall* apply to lots having an existing adequate (eight-inch sewer or six-inch water) or greater size water or sewer service main or the right-of-way or easement containing an adequate size water or sewer service main crossing or touching the property subject to assessment. The exemption contained herein *shall* not relieve a lot from an additional assessment for the extension of an existing water or sewer line if the existing water or sewer line extends across only a part of the frontage of the lot and assessment has

theretofore been made against only that part of the lot abutting on the existing line.

- (b) Where one (1) or more water or sewer lines traverse a lot or tract of land, the abutting footage for each lot, tract or parcel assessed according to the assessment roll *shall* not exceed the straight line distance between the beginning point and the ending point of the line or lines. Provided, upon the installation of a duplication service to a traversed lot or tract of land, an exemption of one hundred fifty (150) feet *shall* be allowed for the duplicating service pursuant to subsection (a) above.

Section 23. Section 8-2036, ADDITIONAL CONDITIONS ON ASSESSMENTS, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2036.

ADDITIONAL CONDITIONS ON ASSESSMENTS.

- (a) The term "lot" as used in this section is defined as a parcel of land owned by one (1) owner without regard to whether or not shown on any subdivision map as separate lots and without regard to how or when acquired, except that when an assessment is made on a per lot basis in a subdivision, the term "lot" *shall* apply to each separate subdivided lot or a combination of subdivided lots where a single building unit is constructed on a portion of all the lots. Provided, however, that when a lot in a subdivision abuts a water or sewer line and the lots in the subdivision are assessed on a per lot basis, such lot *shall* not be assessed a greater amount than the amount which would be assessed against the lot on a linear foot basis after giving credit for the exemptions contained in this section.
- (b) The exemptions provided for in §§8-2034 and 8-2035 *shall* apply only if the cost of the existing water and sewer service main has been assessed against the property for which a duplicating service is provided, or if the existing water or sewer main, including major mains, was installed by a subdivider of property without cost to the *City*, or if the cost of the existing water or sewer service main has been paid from community development funds and such mains are located within redevelopment areas as delineated pursuant to Article 22 of Chapter 160A of the General Statutes of North Carolina, as amended.

Section 24. Section 8-2037, CHARGE IN LIEU OF ASSESSMENT ON PROPERTY NOT ASSESSED, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2037.

CHARGE IN LIEU OF ASSESSMENT ON PROPERTY NOT ASSESSED.

- (a) If property to be served by a water or sewer line is to be connected to a line constructed on an assessment basis pursuant to the provisions of §§8-2031 through 8-2036 of this Code and no assessment was made against the property for

its proportionate part of the line because ownership of the property would not permit the collection of an assessment, or the property was not deemed by the *City* to benefit from the water or sewer lines at the time the water or sewer line was originally constructed, then either at the time of authorized connection or presentation of a subdivision for recordation, whichever occurs first, there *shall* be collected, in addition to all other charges provided herein, or by other law, or ordinance, or resolution, the amount which would have been assessed against the property to be served by the line had such property been assessable at the time the line was constructed.

- (b) In those cases where the *City* has paid the cost of the installation of a water and/or sewer line outside the *City*, either at the time of connection or presentation of a subdivision for recordation, whichever occurs first, there *shall* be in addition to all other fees, an amount charged at the time of connection equal to the amount that would have been assessed, if the property had been assessed but was not, due to the fact that property was located outside the *City* limits at the time the line was installed.

Section 25. The language following the fee schedule in Section 8-2039, FEES FOR THE INSTALLATION OF WATER AND SEWER SERVICES BY CITY FORCES AND CONTRACTORS WORKING FOR THE CITY, is hereby deleted and replaced with the following language:

These fees apply to services installed by *City* employees or contractors working for the *City*.

Taps for water services larger than one (1) inch and sewer services larger than four (4) inches *shall* be installed by a private licensed utility contractor retained by the applicant. Tap fees for owner-occupied residential structures *may* be financed by the *City* for a term of five (5) years at eight (8) per cent interest upon the request of the homeowner.

Water and sewer tap fees relating to public extension projects are subject to a one-year freeze following service availability. This freeze *shall* apply only to owners of developed properties within the project area upon which a tap was installed as part of the public extension project. During the one-year freeze period, the eligible property owners *may* connect to the *City* system(s) and pay the tap fees which were in effect on the date the *City Council* directed construction of the project. All other property owners in the project area *shall* pay the prevailing tap fee(s) in effect on the date service connection is requested.

Section 26. The following changes are made to Section 8-2040, INSPECTION FEES FOR SEWER MAIN EXTENSIONS AND WATER AND SEWER SERVICE STUBS INSTALLED BY PRIVATE CONTRACTORS:

- (1) The first four sentences of this section are hereby labeled subsection (a). The last sentence of this subsection is hereby labeled subsection (b).
- (2) The words "*City's Public Works Department and*" in the first sentence of the new subsection (a) are hereby deleted and replaced with "*Raleigh Public Works Department and/or.*" The words "*City's Public Utilities Department*" in the first sentence of the new subsection (a) are hereby deleted and replaced with "*Raleigh Department of Public Utilities.*"
- (3) All text following "*shall be collected*" in the second sentence of the new subsection (a) is hereby deleted and replaced with the following: "at the time of construction plan submittal by the *Office of Development Services* for closed circuit television (CCTV) inspection of each sewer main extension project that is two thousand (2,000) lineal feet or less in length."
- (4) The following sentence shall be added at the end of the new subsection (a): "The CCTV re-inspection fee *shall be collected* by the administrative office of the *Raleigh Department of Public Utilities.*"
- (5) The only sentence in the new subsection (b) is hereby amended by inserting the phrase "by the *Office of Development Services*" after the word "collected."

Section 27. Section 8-2041, INSPECTION FEE FOR SANITARY SEWER PUMP STATIONS INSTALLED BY PRIVATE CONTRACTORS, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2041.

INSPECTION FEE FOR SANITARY SEWER PUMP STATIONS INSTALLED BY PRIVATE CONTRACTORS.

Prior to being placed into service, all sanitary sewer pump station connections to the *City's* sanitary sewer system installed by a private contractor *shall* be inspected by inspectors from the Raleigh Public Works Department and/or the *Raleigh Department of Public Utilities* to determine whether the pump station has been properly installed. A sanitary sewer pump station construction inspection fee of one thousand four hundred dollars (\$1,400.00) *shall* be collected at the time of construction plans submittal to the *Office of Development Services* for inspection of each sanitary sewer pump station.

Section 28. Any reference to the "Director of Public Utilities" in Section 8-2061, APPLICATION, is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee." The following sentence is inserted immediately before the last sentence in Section 8-2061:

Unless the *Raleigh Director of Public Utilities* or his designee has information that indicates that there is adequate existing sewer capacity to meet the needs of

the property for which sewer service is sought, the application *shall* also include a downstream sewer capacity analysis that demonstrates that there is capacity along the tributary wastewater path from the property to the wastewater treatment plant.

Section 29. Any reference to the "Director of Public Utilities" in Section 8-2062, SIZES AND LOCATIONS OF PIPES, ETC., is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee." The words "*shall* have" in the first sentence of Section 8-2062 are hereby deleted and replaced with "has."

Section 30. Any reference to the term "Director of Public Utilities" in Section 8-2063, CITY COUNCIL APPROVAL OF OUTSIDE EXTENSIONS, is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee." The following sentence is hereby deleted from Section 8-2063(b): "These restrictions *shall* also apply to any properties separated by conveyance after April 17, 1984, except if the property is separated from a parcel which on April 17, 1984 was two (2) acres or less in size."

Section 31. Section 8-2064, DESIGN APPROVAL, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2064.
PRE-CONSTRUCTION APPROVALS.

- (a) After approval of the development by the *City Council*, detailed construction plans of the utility extension including pipes, stubs, valves, valve boxes, hydrants, and other fixtures, equipment and apparatus, *shall* be submitted to the *Raleigh Department of Public Utilities* for review and approval. The construction plans *shall* be accompanied by any necessary federal, state, county and *City* permit applications.
- (b) In the event that any portion of the *utility system* is to be constructed and laid in and along any public highway or the right-of-way thereof, or in and across lands not owned and possessed by the promoters or developers or in and across lands owned and possessed by the developers or promoters but not within the current phase of development, the promoters and developers without cost or expense to the *City shall* procure, prior to construction plan approval, all written easement or right-of-way deeds deemed necessary and proper by the *City*, which legal instruments *shall* be subject to the approval by the City Attorney. The easement and right-of-way deeds *shall* be procured from (i) the proper officials and agencies having control of any public highways which the *utility system* is constructed in or across and (ii) the owners of lands which the *utility system* is constructed in or across. The easement and right-of-way deeds *shall* contain a grant of the right and authority to construct, improve, install, remove, replace, maintain, inspect and repair and use any and all parts of the *utility system* together with all appurtenant facilities and equipment necessary and convenient thereto that is constructed within the easement area or right-of-way, with appropriate

rights of ingress and egress over private lands, when necessary, with the right to remove and keep removed therefrom all trees, shrubs, underbrush or parts thereof and other obstructions as necessary to maintain, repair, or protect the *utility system*. The *City* will join in the execution of such documents, when required, subject to approval of the legal instrument by the City Attorney.

- (c) After the issuance of all required federal, state, county and *City* permits, the construction plans *shall* be resubmitted to the *Raleigh Department of Public Utilities* together with the required federal, state, county and *City* permits. The construction plans will be signed and approved for construction by the *Raleigh Director of Public Utilities* or his designee only after all required federal, state, county and *City* permits are obtained.

Section 32. Section 8-2066, EASEMENTS AND RIGHTS-OF-WAY, PROCURING, is hereby deleted in its entirety and reserved for future use.

Section 33. The phrase "no such connection *shall* be made with the *City* water or sewer line or lines without the express approval of the *City*" in Section 8-2068, DEDICATION OF SYSTEMS, is hereby deleted and replaced with the phrase "no such connection *shall* be made with the *City* water or sewer line or lines without the express approval of the *City* and the payment of required utility connection and inspection fees."

Section 34. Immediately following the words "accurate map" in the beginning of Section 8-2070, MAP OF SYSTEMS, the following is hereby inserted: ", in formats required by the *Raleigh Department of Public Utilities*." Any reference to the term "Director of Public Utilities" in Section 8-2070 is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."

Section 35. The following changes are made to Section 8-2074, SPECIAL CONDITIONS IN CITY'S TAKING OVER PRIVATE "COMMUNITY" UTILITY SYSTEMS:

- (1) The reference to "developer"" in Section 8-2074(a) is hereby deleted and replaced with "owner."
- (2) Subparagraph (d) of Section 8-2074 is hereby deleted in its entirety and replaced with the following:
 - (d) The agreement *shall* provide for the *utility system* in the streets and drainage easements to become a part of the *City* system without cost to the *City*. The agreement *shall* further provide that following the connection of the properties served by the privately developed community *utility system* to the *City's utility system*, the owner *shall* properly abandon the wastewater treatment plant pursuant to applicable laws and regulations at no cost to the *City*.

- (3) Subparagraphs (e) and (f) of Section 8-2074 are hereby deleted in their entirety and replaced with the following:

- (e) All lots connecting to the *utility system shall* bear their share of the utility connection cost, which cost must be paid in a lump sum.

Section 36. Section 8-2075, EXTENSIONS TO NEW DEVELOPMENTS INSIDE CORPORATE LIMITS; DEVELOPER TO BE REIMBURSED FOR OVERSIZED LINES, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2075.

**EXTENSIONS TO NEW DEVELOPMENTS INSIDE CORPORATE LIMITS;
DEVELOPER TO BE REIMBURSED FOR MINOR LINES.**

- (a) If the water and sewer lines installed pursuant to this section are over six (6) inches in size for water or over eight (8) inches in size for sewer, but less than twelve (12) inches in size, and the lines or the area to be served are within the *City* limits, the *City shall* reimburse the applicant for certain costs and under certain conditions as stated herein.
- (b) For developments inside the *City* limits or developments which it has been agreed *shall* be annexed to the *City*, the *City*, under the conditions listed in §8-2077 below, will reimburse the developer for costs incurred over and above those required to serve his/her immediate development. Such reimbursement *shall* be made in accordance with §8-2094 and §8-2095. Payment *may* be a one-time payment if the *Raleigh Director of Public Utilities* or his designee determines that there are sufficient funds to meet all outstanding obligations and the immediate request. Otherwise, reimbursement *shall* be in annual installment payments over a period of up to ten (10) years beginning on January 1 following the time of final inspection and acceptance of the improvement by the Chief Engineer of the *City*. The following installations are subject to reimbursement:
- (1) Differential unit costs as set forth in the reimbursement fee schedule provided in §8-2094 between a six-inch water main and water mains over six (6) inches in diameter, but less than twelve (12) inches in diameter when required by the *City* and not necessary to serve the subject property.
- (2) Differential unit costs as set forth in the reimbursement fee schedule provided in §8-2094 between an eight-inch sewer main and sewer mains over eight (8) inches in diameter, but less than twelve (12) inches in diameter, when required by the *City* and not necessary to serve the subject property.
- (3) Unit cost of off-site utility lines less than twelve (12) inches in diameter constructed by the developer to reach the outer boundary of the

development, whether the lines are installed inside or outside the *City* limits.

Section 37. Section 8-2076, EXTENSIONS TO NEW DEVELOPMENTS OUTSIDE THE CORPORATE LIMITS; DEVELOPER TO BE REIMBURSED FOR LINES CONSTRUCTED, WITHIN THE CITY LIMITS, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2076.

EXTENSIONS TO NEW DEVELOPMENTS OUTSIDE THE CORPORATE LIMITS; DEVELOPER TO BE REIMBURSED FOR MINOR LINES CONSTRUCTED WITHIN THE CITY LIMITS.

For developments outside the *City* limits, the *City*, under the conditions listed below in §8-2077, will reimburse the developer for unit costs of utilities less than twelve (12) inches in diameter constructed within the *City* limits by the developer to reach his/her developments. Payment *may* be a one-time payment if the *Raleigh Director of Public Utilities* or his designee determines that there are sufficient funds to meet all outstanding reimbursement obligations and the immediate request. Otherwise, reimbursement *shall* be in annual installment payments without interest over a period of up to ten (10) years beginning on January 1 following the time of final inspection and acceptance of the improvement by the Chief Engineer of the *City*.

Section 38. Section 8-2078, ENFORCEMENT PROCEDURE, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2078.

ENFORCEMENT PROCEDURE.

- (a) Whenever the *Raleigh Director of Public Utilities* or his designee finds that any *person* has violated or is violating this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, the *Raleigh Director of Public Utilities* or his designee *may* serve upon such a *person* a written notice stating the nature of the violation. If requested by the *Raleigh Director of Public Utilities* or his designee, a plan for the satisfactory correction thereof *shall* be submitted to the *Raleigh Director of Public Utilities* or his designee within the timeframe specified in the enforcement policy adopted in accordance with subsection (d) below. Submission of this plan does not relieve the *person* of liability for any violations occurring before or after receipt of the notice of violation. In the event of an emergency that requires the *City* to take immediate action to correct the violation, the *City* is not required to provide an opportunity for the violator to correct the violations and *may* assess penalties and costs pursuant to this section without prior notice.
- (b) Any *person* who is found to have failed to comply with any provision of this article, any permit issued pursuant to this article, or any regulation, standard, rule

or order adopted in furtherance of this article, *shall be subject to* a civil penalty as follows:

- (1) For a first-time violator where the violation was not committed willfully or intentionally, \$5,000 per day per violation.
- (2) For a repeat violator where the violation was not committed willfully or intentionally, \$10,000 per day per violation
- (3) For a first-time violator where the violation was committed willfully or intentionally, \$25,000 per day per violation.

The notice of the civil penalty assessment *shall* be issued in writing and *shall* set forth with reasonable care the basis of the civil penalty and any administrative costs and the costs to the *City* of rectifying the noncompliance that are assessed.

- (c) Any *person* violating any section of this article must pay to the *City* all expenses incurred by the *City* in repairing any damage to the *utility system* caused in whole or in part by such violation and any expense incurred by the *City* in investigating such violation.
- (d) The *Raleigh Director of Public Utilities* *shall* maintain an enforcement policy to implement this section which *shall* be submitted to the *City Council* for approval.
- (e) From and after the expiration of the time period specified in the notice of violation issued pursuant to subsection (a) above of this section for correcting a violation of this article, each subsequent day that the violation continues in existence *shall* constitute a separate and distinct offense subject to additional civil penalties.
- (f) Any appeal from a notice of violation or civil penalty assessment *shall* be made in writing to the *Raleigh Director of Public Utilities* within thirty (30) days of receipt of the notice of violation or civil penalty assessment issued pursuant to this section. The *Raleigh Director of Public Utilities* *shall* use all reasonable efforts to notify the appellant in writing of his or her decision within sixty (60) days of receipt of the notice of appeal pursuant to the enforcement policy adopted pursuant to subsection (d) above of this section.
- (g) All notices required by this subsection *may* be served by certified mail or hand-delivery to the violator; certified mail or hand-delivery to the owner of the property in violation; or posting the notice at the property in violation. When service is made by certified mail, a copy of the notice *may* also be sent by First Class U.S. Mail. Service *shall* be deemed sufficient if the notice sent by First Class U.S. Mail is not returned by the U.S. Post office seven (7) days after mailing.

- (h) If payment is not received or equitable settlement reached after thirty (30) days after demand for payment is first made, the matter *shall* be referred to the City Attorney for institution of a civil action in the name of the *City* in the appropriate division of the general court of justice of Wake County for recovery of the penalty. If payment is not received or equitable settlement has not been reached within the specified time period, the *City may* interrupt water and sewer service to the property until such time that payment is received or equitable settlement has been reached.
- (i) Any *person* who violates any of the provisions of this article, any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or who undertakes or continues any alteration, extension or construction of the *utility system* or part thereof without first obtaining a permit or written permission or who undertakes or continues any alteration, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both *shall* be guilty of a misdemeanor punishable by imprisonment to the maximum number of days prescribed by law.
- (j) Whenever the *City Council* has reasonable cause to believe that any *person* is violating or threatening to violate any of the provisions of this article or any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or is undertaking or continuing any alteration, extension and construction of the *utility system* without first obtaining a permit or written permission, or is undertaking or continuing any alterations, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both, the *City may*, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the *City* for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection *shall* not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Code. The terms "undertakes" or "undertaking" as used in this section means the initiating of or continuing of or being financially responsible for any activity or phase of activity which results in the extension, construction, or alteration of any part of the *utility system* of the *City*.
- (k) The penalties and enforcement provisions established by this article *may* be applied in addition to or in lieu of the penalties established by other sections of this Code and applicable ordinances. The remedies provided for in this article are not exclusive. The *Raleigh Director of Public Utilities* or his designee *may* take any, all, or any combination of these actions against a violator.

Section 39. The last sentence in Section 8-2148, OTHER CONNECTIONS, is hereby deleted and replaced with the following sentence: "Notwithstanding any requirements of this section, testable containment devices that are required on residential lawn irrigation systems must be tested in the manner and frequency described in the Raleigh Public Utilities Handbook."

Section 40. Any reference to "City of Raleigh Public Utilities Department" in the definition of "hydrant meter" in Section 8-2163, DEFINITIONS, is hereby deleted and replaced with "*Raleigh Department of Public Utilities*." The reference to the website "<http://www.irrigation.org>" in the definition of "irrigation audit" in Section 8-2163 is hereby deleted.

Section 41. The following modifications are made to the definitions in Section 8-2181, DEFINITIONS:

- (1) The defined term "*Major reuse water*" in Section 8-2181 is hereby changed to "*Major reuse water lines*."
- (2) The definition of "*NCAC Section 15A NCAC 02T0900*" is hereby deleted in its entirety and replaced with the following:

NCAC Section 15A NCAC 02U.0100 shall mean the North Carolina Administrative Code, Section 15A, NCAC subchapter 02U, section .0100, as currently written and as may be rewritten from time to time.

- (3) The definition of "*Permit*" is hereby deleted in its entirety and replaced with the following:

Permit shall mean an individual utilization permit issued by the City and in some cases, the North Carolina Division of Water Quality, to utilize reclaimed water only for the purposes identified in such utilization permit.

- (4) The definition of "*Utility system or utility lines*" is hereby deleted.

Section 42. Section 8-2182, ADOPTION OF NCAC SECTION 15A NCAC 02T.0900 AND PROVIDER PERMIT ISSUED BY DIVISION OF WATER QUALITY, is hereby deleted in its entirety and replaced with the following:

Sec. 8-8182.

ADOPTION OF NCAC SECTIONS 15A NCAC 02T AND 15A NCAC 02U AND PROVIDER PERMIT ISSUED BY DIVISION OF WATER QUALITY.

Rules and regulations relating to waste not discharged to surface waters appearing in North Carolina Administrative Code Titles 15A NCAC 02U and 15A NCAC 02T and the City of Raleigh Provider Permit, as *may* be amended from time to time, are hereby adopted by reference and incorporated into the City Code as though fully set forth within this article and *shall* apply within the City of Raleigh as an ordinance. In the event of any

variation between the provisions of the applicable North Carolina Administrative Code and/or the Provider Permit, and/or the provisions of this article, the more strict provision *shall* prevail. The violation of a provision of NCAC Section 15A NCAC 2T or 02U.0100 *shall* be deemed a violation of this section.

Section 43. The term "user" in Section 8-2183, RECLAIMED WATER PERMIT, is hereby deleted and replaced with the term "utilization." The term "reclaimed water" in Section 8-2183 is hereby replaced with the term "reuse water."

Section 44. The following changes are made to Section 8-2184, ALLOWABLE USES OF REUSE WATER:

- (1) The reference to the "Director" is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."
- (2) The words "that do not drain to surface waters" are inserted after the word "fountains" in Section 8-2184(3).
- (3) The words "a spray" are hereby deleted and replaced with "runoff from the site" in Section 8-2184(6).

Section 45. Section 8-2185, MANDATORY USES OF REUSE WATER, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2185.
MANDATORY USES OF REUSE WATER.

Where reuse water is available to a property, all new non-potable uses, including but not limited to landscape irrigation systems, *shall* utilize reuse water to the extent permitted under state law unless the design and installation costs of a dual plumbing system exceed two and a half times the cost of a single plumbing system to serve the property.

Section 46. Item 2 in Section 8-2186, PROHIBITED USES OF REUSE WATER, is hereby deleted in its entirety and replaced with the following:

- (2) Irrigation of direct food chain crops unless expressly allowed under North Carolina rules and regulations.

Section 47. The reference to "Director of Public Utilities" in Section 8-2188, ADMINISTRATIVE PROGRAMS, is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."

Section 48. The reference to "Director of Public Utilities" in Section 8-2193, CROSS-CONNECTION, is hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his

designee." The term "device" in the second sentence of Section 8-2193 is hereby deleted and replaced with "assembly."

Section 49. The references to "Director of Public Utilities" in Sections 8-2196, ACCESS TO AND OBSTRUCTIONS OF MANHOLES AND EASEMENTS, and 8-2197, INJURY TO SYSTEMS; REMOVING, DAMAGING, BREAKING, ETC., are hereby deleted and replaced with "*Raleigh Director of Public Utilities* or his designee."

Section 50. Section 8-2198, ENFORCEMENT PROCEDURE, is hereby deleted in its entirety and replaced with the following:

Sec. 8-2198.
ENFORCEMENT PROCEDURE.

- (a) Whenever the *Raleigh Director of Public Utilities* or his designee finds that any *person* has violated or is violating this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, the *Raleigh Director of Public Utilities* or his designee *may* serve upon such a *person* a written notice stating the nature of the violation. If requested by the *Raleigh Director of Public Utilities* or his designee, a plan for the satisfactory correction thereof *shall* be submitted to the *Raleigh Director of Public Utilities* or his designee within the timeframe specified in the enforcement policy adopted in accordance with subsection (d) below. Submission of this plan does not relieve the *person* of liability for any violations occurring before or after receipt of the notice of violation. In the event of an emergency that requires the *City* to take immediate action to correct the violation, the *City* is not required to provide an opportunity for the violator to correct the violations and *may* assess penalties and costs pursuant to this section without prior notice.
- (b) Any *person* who is found to have failed to comply with any provision of this article, any permit issued pursuant to this article, or any regulation, standard, rule or order adopted in furtherance of this article, *shall* be subject to a civil penalty as follows:
 - (1) For a first-time violator where the violation was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, \$250 per day per violation.
 - (2) For a first-time violator where the violation was not committed willfully or intentionally and is an actual or potential risk to public health or safety, \$500 per day per violation.
 - (3) For a repeat violator where the violations was not committed willfully or intentionally and is not an actual or potential risk to public health or safety, \$500 per day per violation.

- (4) For a repeat violator where the violations was not committed willfully or intentionally and is an actual or potential risk to public health or safety, \$1,000 per day per violation.
- (5) For a violator where the violation was committed willfully or intentionally, \$1,500 per violation.

The notice of the civil penalty assessment *shall* be issued in writing and *shall* set forth with reasonable care the basis of the civil penalty and any administrative costs and the costs to the *City* of rectifying the noncompliance that are assessed.

- (c) Any *person* violating any section of this article must pay to the *City* all expenses incurred by the *City* in repairing any damage to the *utility system* caused in whole or in part by such violation and any expense incurred by the *City* in investigating such violation.
- (d) The *Raleigh Director of Public Utilities shall* maintain an enforcement policy to implement this section which *shall* be submitted to the *City Council* for approval.
- (e) From and after the expiration of the time period specified in the notice of violation issued pursuant to subsection (a) above of this section for correcting a violation of this article, each subsequent day that the violation continues in existence *shall* constitute a separate and distinct offense subject to additional civil penalties.
- (f) Any appeal from a notice of violation or civil penalty assessment *shall* be made in writing to the *Raleigh Director of Public Utilities* within thirty (30) days of receipt of the notice of violation or civil penalty assessment issued pursuant to this section. The *Raleigh Director of Public Utilities shall* use all reasonable efforts to notify the appellant in writing of his or her decision within sixty (60) days of receipt of the notice of appeal pursuant to the enforcement policy adopted pursuant to subsection (d) above of this section.
- (g) All notices required by this subsection *may* be served by certified mail or hand-delivery to the violator; certified mail or hand-delivery to the owner of the property in violation; or posting the notice at the property in violation. When service is made by certified mail, a copy of the notice *may* also be sent by First Class U.S. Mail. Service *shall* be deemed sufficient if the notice sent by First Class U.S. Mail is not returned by the U.S. Post office seven (7) days after mailing.
- (h) If payment is not received or equitable settlement reached after thirty (30) days after demand for payment is first made, the matter *shall* be referred to the City Attorney for institution of a civil action in the name of the *City* in the appropriate division of the general court of justice of Wake County for recovery of the

penalty. If payment is not received or equitable settlement has not been reached within the specified time period, the *City may* interrupt water and sewer service to the property until such time that payment is received or equitable settlement has been reached.

- (i) Any *person* who violates any of the provisions of this article, any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or who undertakes or continues any alteration, extension or construction of the *utility system* or part thereof without first obtaining a permit or written permission or who undertakes or continues any alteration, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both *shall* be guilty of a misdemeanor punishable by imprisonment to the maximum number of days prescribed by law.
- (j) Whenever the *City Council* has reasonable cause to believe that any *person* is violating or threatening to violate any of the provisions of this article, or any permit, or any regulation, standard, rule or order duly adopted in furtherance of this article, or is undertaking or continuing any alteration, extension and construction of the *utility system* without first obtaining a permit or written permission, or is undertaking or continuing any alterations, extension, or construction of the *utility system* or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both, the *City may*, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the *City* for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection *shall* not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Code. The terms "undertakes" or "undertaking" as used in this section means the initiating of or continuing of or being financially responsible for any activity or phase of activity which results in the extension, construction, or alteration of any part of the *utility system* of the *City*.
- (k) The penalties and enforcement provisions established by this article *may* be applied in addition to or in lieu of the penalties established by other sections of this Code and applicable ordinances. The remedies provided for in this article are not exclusive. The *Raleigh Director of Public Utilities* or his designee *may* take any, all, or any combination of these actions against a violator.

Section 51. Any other section of Part 8, PUBLIC UTILITIES, of the Raleigh City Code that is not modified above shall be revised as follows:

- (1) Any reference to the "Director of Public Utilities" or "Public Utilities Director" is hereby deleted and replaced with "Raleigh Director of Public Utilities."

- (2) Any reference to the "City Plumbing Code" or "Plumbing Code" is hereby deleted and replaced with "North Carolina Plumbing Code."

Section 52. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 53. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 54. This ordinance shall be enforced as provided in N.C.G.S. §160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. §14-4(a) or similar limitations.

Section 55. This ordinance shall become effective five (5) days following the date of its adoption.

ADOPTED: January 21, 2014
EFFECTIVE: January 26, 2014

DISTRIBUTION: Finance: Rose
Budget: Munro
Audits: Bradsher
Public Utilities: Carman, Massengill, Waldroup, Wheeler, Lynch,
Alford, N. Brown, Sanchez, Rochetti
Planning: Silver, Bowers
Public Works: Dawson
City Attorney: Bachl, Hargrove
Transcription Svcs: Jackie Taylor
Department Heads