

AN ORDINANCE TO AMEND CHAPTER 45 TO PROHIBIT WATER SERVICE DISCONNECTIONS FOR NONPAYMENT OF UTILITY CHARGES

#0423

Sponsor:

**Council
Member
Darby**

WHEREAS, *Wilm. C.* §§ 45-53 and 45-54 allow the City to collect stormwater and sewerage fees from residents and non-residents served by the City’s sanitary sewer system; and

WHEREAS, *Wilm. C.* § 45-175 allow the City to collect water usage bills from residents and non-residents served by the City’s water supply; and

WHEREAS, *Wilm. C.* § 45-176 creates interest, penalties, and costs for unpaid water, stormwater, and sewerage bills; and

WHEREAS, *Wilm. C.* § 45-86 lists reasons the City may discontinue water service; and

WHEREAS, every resident of the City of Wilmington, regardless of race, class, or where they live should have access to clean and safe water; and

WHEREAS, no one should fear that their water will be shut off at any time, but especially during a time when hand-washing and practicing proper hygiene is critical to prevent the spread of a deadly illness; and

WHEREAS, many City utility customers are suffering from the economic harm caused by the pandemic and, more recently, inflation; and

WHEREAS, there are alternative ways to obtain payment of unpaid utility bills, including the City’s Utility assistance program; and

WHEREAS, *Wilm. C. (Charter)* § 2-305 gives City Council the ability to modify a department’s duties; and

WHEREAS, City Council deems it necessary and proper to prohibit the Department of Finance from disconnecting water service for failure to pay service charges; and

WHEREAS, City Council deems it necessary to protect the City's most vulnerable populations from water shutoffs.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Section 45-33 of the Wilmington City Code is hereby amended by adding the underlined language and deleting the stricken language to read as follows:

Sec. 45-33. – Penalties for failure to pay sewer system user charges and for repeated discharges of prohibited wastes.

The failure of any owner or user to pay any billing when due as provided in this Code for repeated discharges of prohibited wastes to the sewer system shall be sufficient cause for the city to disconnect any and all services to the sewer mains of the department of public works. Owners or users who fail to pay the established charges for sewer service when due shall be liable for the same interest charges and penalties as for failure to pay water rents when due, including penalty charges, interest and costs of collection ~~and discontinuance of water service~~, as provided in article III of this chapter.

SECTION 2. Section 45-86 of the Wilmington City Code is hereby amended by adding the underlined language and deleting the stricken language to read as follows:

Sec. 45-86. – Discontinuance by the City.

- (a) Service may be discontinued, upon 96 hours written notice to the owner or his authorized agent, and to the occupant(s), for any of the following reasons:
 - (1) For the use of water for any other property or purpose other than that described in the application.
 - (2) For willful waste of water through improper or imperfect pipes, fixtures or otherwise.
 - (3) For molesting any service pipe, meter, curb, stop cock or seal, or any other appliance of the department.
 - (4) In case of vacancy of premises.
 - (5) For refusal of reasonable access to the property for purpose of

inspecting, reading or removal of meter, and for failure to make provisions to afford the department access to the meter at least once per month during the department's regular working hours, Monday through Friday.

- (6) For making, or refusing to sever, any cross connection between a pipe or fixture carrying water furnished by the department, and a pipe or fixture carrying water from any other source.
 - ~~(7) For the nonpayment of water service and repairs, charges, penalties and fines if the whole or any portion of the charges remains unpaid after the due date on the bill and no agreement is in effect. Six months or more of continual non-payment. Water service shall be discontinued to any customer who remains in a non-payment status for a continuous period of six months or more.~~
 - ~~(8)~~ (7) For extending water pipes to other buildings without proper permit and refusing to pay water services for same.
 - ~~(9)~~ (8) For refusal to have water pipes properly arranged for meter installation.
 - ~~(10)~~ (9) For violation of any rules of the department and any violation of state or municipal regulations governing such water service. The written notice requirement is applicable in all circumstances, including cases where there is a written agreement between the city and the customer for payments on past amounts due.
- (b) There shall be no charge whenever water is turned off from any premises because of violation of the department's rules and regulations, ~~or for nonpayment of a bill.~~ Service shall be renewed under a proper application when the conditions under which such service was discontinued are corrected, ~~and upon payment of all proper charges or amounts due from the customer.~~ An additional charge of \$60.00 shall be made for again turning on the water. ~~In any instance in which notice of discontinuance of water service has been given for the nonpayment of water service and repairs, charges, penalties and fines, pursuant to subsection (a)(7) of this section, such discontinuance of water service shall not take place on any Friday nor on any day immediately preceding a federal, state or city holiday.~~
- (c) The city shall not be liable for any breakage in the water service, including pipes and valves, sustained during any shutoff or resumption of service.

SECTION 3. Section 45-171 of the Wilmington City Code is hereby amended by deleting the stricken language to read as follows:

Sec. 45-171. – When facilities charge payable; effect of nonpayment.

Beginning July 1, 1983, the facilities charge for water furnished by meter measurements shall be payable to the department of finance, in advance on or before the billing due date. If, after the billing due date, the whole or any portion thereof remains unpaid, the account shall be deemed delinquent and subject to the penalty and interest charges provided in this division. ~~If the whole or any portion thereof remains unpaid 30 days after the billing due date, the water may be shut off and the water shall not again be supplied or furnished to such premises except upon payment of all water rent due the city, including turn off and turn on charges, together with penalties, interest and costs as provided in this division.~~

SECTION 4. Section 45-172 of the Wilmington City Code is hereby amended by deleting the stricken language to read as follows:

Sec. 45-172. – Collection of usage charges; effect of nonpayment.

Beginning July 1, 1983, the charge for water used shall be payable on or before the billing due date. If, after the billing due date, the whole or any portion thereof remains unpaid, the account shall be deemed delinquent and subject to the penalty and interest charges as provided hereinafter. ~~If the whole or any portion thereof remains unpaid 30 days after the billing due date, the water may be shut off, as in other cases of delinquency, and the water shall not again be supplied or furnished to such premises except upon payment of all charges due, including turn off and turn on charges, together with penalties, interest and costs as provided in this article or upon the execution of a payment agreement if such agreement has first been approved by the director of finance, who shall only approve such an agreement in extraordinary cases upon good cause shown.~~

SECTION 5. This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First Reading May 2, 2024
Second Reading May 2, 2024
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2024.

Mayor

SYNOPSIS: This Ordinance prohibits the Department of Finance from disconnecting water service for nonpayment of sewer, stormwater, and water service charges.

FISCAL IMPACT STATEMENT: The fiscal impact of this legislation is unknown at this time.