

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1661

Short Title: Durham Dumpster Service.

(Local)

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Sponsors: Representatives Miller; and Luebke.

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Referred to: Local and Regional Government II.

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May 28, 1998

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE AUTHORITY OF THE CITY OF DURHAM TO  
2 PROVIDE STATIONARY CONTAINER SERVICE TO HOUSING UNITS THAT  
3 QUALIFY FOR ROLL OUT CART SERVICE WITHOUT CHARGING  
4 ADDITIONAL FEES.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 160A-314 reads as rewritten:

8 "**§ 160A-314. Authority to fix and enforce rates.**

9 (a) A city may establish and revise from time to time schedules of rents, rates,  
10 fees, charges, and penalties for the use of or the services furnished by any public  
11 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to  
12 classes of service, and different schedules may be adopted for services provided outside  
13 the corporate limits of the city.

14 (a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties  
15 for structural and natural stormwater and drainage systems under this section, the city  
16 council shall hold a public hearing on the matter. A notice of the hearing shall be given at  
17 least once in a newspaper having general circulation in the area, not less than seven days  
18 before the public hearing. The hearing may be held concurrently with the public hearing  
19 on the proposed budget ordinance.

1 The fees established under this subsection must be made applicable throughout the  
2 area of the city. Schedules of rates, fees, charges, and penalties for providing structural  
3 and natural stormwater and drainage system service may vary according to whether the  
4 property served is residential, commercial, or industrial property, the property's use, the  
5 size of the property, the area of impervious surfaces on the property, the quantity and  
6 quality of the runoff from the property, the characteristics of the watershed into which  
7 stormwater from the property drains, and other factors that affect the stormwater drainage  
8 system. Rates, fees, and charges imposed under this subsection may not exceed the city's  
9 cost of providing a stormwater and drainage system.

10 No stormwater utility fee may be levied under this subsection whenever two or more  
11 units of local government operate separate structural and natural stormwater and drainage  
12 system services in the same area within a county. However, two or more units of local  
13 government may allocate among themselves the functions, duties, powers, and  
14 responsibilities for jointly operating a single structural and natural stormwater and  
15 drainage system service in the same area within a county, provided that only one unit  
16 may levy a fee for the service within the joint service area. For purposes of this  
17 subsection, a unit of local government shall include a regional authority providing  
18 structural and natural stormwater and drainage system services.

19 (a2) A fee for the use of a disposal facility provided by the city may vary based on  
20 the amount, characteristics, and form of recyclable materials present in solid waste  
21 brought to the facility for disposal. This section does not prohibit a city from providing  
22 aid to low-income persons to pay all or part of the cost of solid waste management  
23 services for those persons.

24 (a3) Where housing units qualify under city ordinances for roll out cart solid waste  
25 collection service and the housing units instead choose to be served by stationary  
26 containers in accordance with city ordinances, a city may provide stationary container  
27 collection service without charging fees for such service other than the fees applicable to  
28 roll out cart service.

29 (a4) Nothing in this section shall be construed to impair the authority of a city to  
30 charge customers who do not qualify for service under subsection (a3) of this section the  
31 fees established by city ordinances for stationary container collection service.

32 (b) A city shall have power to collect delinquent accounts by any remedy provided  
33 by law for collecting and enforcing private debts, and may specify by ordinance the order  
34 in which partial payments are to be applied among the various enterprise services covered  
35 by a bill for the services. A city may also discontinue service to any customer whose  
36 account remains delinquent for more than 10 days. When service is discontinued for  
37 delinquency, it shall be unlawful for any person other than a duly authorized agent or  
38 employee of the city to do any act that results in a resumption of services. If a delinquent  
39 customer is not the owner of the premises to which the services are delivered, the  
40 payment of the delinquent account may not be required before providing services at the  
41 request of a new and different tenant or occupant of the premises, but this restriction shall  
42 not apply when the premises are occupied by two or more tenants whose services are  
43 measured by the same meter.

1 (c) Except as provided in subsection (d) and G.S. 160A-314.1, rents, rates, fees,  
2 charges, and penalties for enterprisory services shall be legal obligations of the person  
3 contracting for them, and shall in no case be a lien upon the property or premises served,  
4 provided that no contract shall be necessary in the case of structural and natural  
5 stormwater and drainage systems.

6 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal  
7 obligations of the owner of the premises served when:

8 (1) The property or premises is leased or rented to more than one tenant and  
9 services rendered to more than one tenant are measured by the same  
10 meter.

11 (2) Charges made for use of a sewage system are billed separately from  
12 charges made for the use of a water distribution system.

13 (e) Nothing in this section shall repeal any portion of any city charter inconsistent  
14 herewith."

15 Section 2. This act applies to the City of Durham only.

16 Section 3. This act is effective when it becomes law.