

ORDINANCE NO. 2015-02
OF THE GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
ESTABLISHING A DISTRICT ORDINANCE FOR THE THEFT OF WATER
AND TAMPERING WITH DISTRICT FACILITIES

Be it enacted by the Board of Directors of the Georgetown Divide Public Utility District that:

WHEREAS, California Penal Code section 498 prohibits the theft of utility services, including water; and

WHEREAS, California Penal Code section 624 prohibits every person from willfully damaging, tampering with, or digging up water pipes or waterworks; and

WHEREAS, California Penal Code section 625 prohibits every person who, with intent to defraud or injure, opens or causes to be opened, or draws water from any disconnected utility connection after having been notified that the same has been closed or shut for specific cause, by order of competent authority; and

WHEREAS, any person who violates Penal Code sections 498, 624, or 625 is guilty of a misdemeanor; and

WHEREAS, California Civil Code section 1882 et seq. authorizes the Georgetown Divide Public Utility District (the "District") to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts:

- a. Diverts, or causes to be diverted, utility services by any means whatsoever.
- b. Makes, or causes to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility.
- c. Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.
- d. Tampers with any property owned or used by the utility to provide utility services.

e. Uses or receives the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility; and

WHEREAS, pursuant to California Government Code section 53069.4, the District may, by ordinance, make the violation of any ordinance enacted by its Board of Directors subject to a civil administrative fine or penalty; and

WHEREAS, because water is a vital resource, the District has determined that it is appropriate to impose civil administrative fines for the theft of water to protect this vital resource; and

WHEREAS, the District Board of Directors finds that this Ordinance is in the best interest of the District to protect the health, safety and welfare of the community; and

WHEREAS, the Board of Directors finds that this Ordinance is consistent with state law and the policies of the District.

NOW, THEREFORE, the Board of Directors of the Georgetown Divide Public Utility District does ordain as follows:

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT THEFT OF SERVICE
AND TAMPERING VIOLATIONS

Section 1. Recitals. The District hereby finds and determines that the above recitals are true and correct and are incorporated herein.

Section 2. Violations.

- a. For the purposes of this Ordinance, "water theft" means and includes all of the following:
 1. the use, diversion, receipt or taking of District water by any means from any public fire hydrant, blow-off valve, water main, water service lateral or other District facility or connection to a District facility; and
 2. the use, diversion, receipt, or taking of District water by any means without paying the full and lawful District charges for such water, or by tampering with District property or facilities.

3. For the purposes of this ordinance, “unauthorized use” includes the use of water from a stationary service connection where lawful water service has been discontinued or from a public fire hydrant, regardless of whether payment is provided to the District for the water drawn from the public fire hydrant, or any use of a hydrant meter in violation of the terms and conditions of a hydrant meter permit.
- b. “Tampering” with District equipment or facilities is considered grounds for discontinuance of utility service. “Tampering” shall include, but not be limited to:
1. Opening valves at the Curb or meters that have been turned off by District personnel.
 2. Breaking, picking or damaging cut-off locks.
 3. Bypassing meter in any way.
 4. Taking unmetered water from hydrants by anyone other than authorized officials of a recognized fire department, fire insurance company or District employee for any purpose other than firefighting, testing or flushing of hydrants.
 5. Use of sprinkler system water service for any purpose other than fire protection.
 6. Removing, disabling or adjusting meter registers.
 7. Connecting to or intentionally damaging water lines, valves or other appurtenances.
 8. Moving the meter or extending service without permission of the District.
 9. Any intentional act of defacement, destruction or vandalism to District property or an act that affects District property.
 10. Unauthorized use of a pump or device for removal of water from the ditch system.
 11. Any intentional blockage or obstruction of District property.

- c. Water theft and tampering are prohibited. Each act of water theft or tampering constitutes a misdemeanor.
- d. If any person takes water from a fire hydrant without authorization or otherwise tampers with District property, the District will submit a record of the vehicle license plate number or photo (if available) to El Dorado County Sheriff Department for investigation.
- e. The District may report any water theft to the appropriate prosecuting agency and press for prosecution of said activity pursuant to the Penal Code.

Section 3. Administrative Penalties. In addition to pursuing criminal penalties, the District, upon discovering water theft or tampering with District property, may also pursue the following remedies or other remedies available at law or equity:

- a. require the immediate removal of any equipment, connections or tools used to accomplish the water theft that is attached to District property;
- b. charge the customer or perpetrator an administrative penalty of:
 - 1. \$150 for the first violation;
 - 2. \$250 for a second violation within a twelve-month period; and
 - 3. \$350 for each violation thereafter within a twelve-month period.

Section 4. Other Remedies. In addition to any other remedies provided in this Ordinance or available under applicable law, the District may alternatively seek injunctive relief in the Superior Court or take enforcement action. All remedies provided herein shall be cumulative and not exclusive. If a customer or any other person turns on water service without District authorization, tampers with any locked water meter, tampers with a service connection or District facilities, bypasses a meter, or otherwise makes an unauthorized connection to District facilities without District permission, or commits water theft, the District may:

- a. turn off the water service and install a lock;
- b. estimate, if necessary, the water taken and charge the customer, offender or water recipient three times the normal rate of the water taken from the District facility;

- c. charge the customer, offender or water recipient for the damage to the District lock, meter or other property;
- d. remove the meter and plug the service;
- e. terminate and remove the service from its connection to the water main;
- f. charge a deposit of two times the amount of the average use to reestablish service;
- g. require the return of any District hydrant meter; and
- h. prohibit any person who has committed three violations of this Ordinance within a twelve-month period from obtaining a District hydrant meter permit for a period of three (3) years from the date of the third violation.

Section 5. Notice.

- a. A “Notice of Violation” will be mailed or delivered to the customer for the following:
 - 1. Evidence suggests the possibility of theft of service, including irrigation water, at the customer’s property.
 - 2. If the violation does not constitute an immediate threat of safety or equipment integrity to the system, the customer will be ordered to immediately cease any unlawful practice.
- b. A “Notice of Violation” will be mailed or delivered to the customer after service is cut-off for the following:
 - 1. In the opinion of the District’s General Manager, theft of service is clearly evident on the customer’s property and immediate action is necessary.
 - 2. In the opinion of the District’s General Manager, there is an immediate danger to public health or safety.

Section 6. Payment and Appeal Procedures. The District shall calculate the amount of damages and penalty(ies) to be imposed, and shall send a bill to the customer, or if the offender is not a customer of record, an invoice for payment of the damages or penalty(ies) may be sent to the offender, water user or recipient.

- a. All costs relating to the District's processing and handling of the water theft, investigation and enforcement thereof, and potential charges for reestablishment of service, shall be borne by the party having responsibility for the water account at the time of the water theft, or if there is no customer of record, by the offender, water user or recipient. These charges include, but are not limited to, service call charges, water charges, turnoff of service, charges for damage to District facilities and equipment, and plug or termination fees. Before the meter will be replaced and service reestablished, the party requesting service, if in any way involved in or related to, or associated with, parties involved in the water theft, shall deposit twice the average bi-monthly water bill, plus the standard meter reinstallation fee, in addition to all service call charges, and an amount representing any damage to District property.
- b. All charges relating to the District's processing and handling of the water theft involving the taking of water from a public fire hydrant shall be borne by the offender, water user or recipient, including, but not limited to, the cost of any water, charges for any damage to District facilities and equipment, and costs of investigation and enforcement.
- c. Any person (an "appellant") who wishes to appeal the imposition of an administrative penalty imposed by the District pursuant to this Ordinance, or who wishes to appeal the imposition of a three-year prohibition on a hydrant meter permit pursuant to Section 4(h), shall comply with the following procedures:
 1. The appellant shall submit an appeal request to the District no later than fifteen (15) calendar days from the date of the bill or invoice sent to the customer or offender.
 2. A response to the appeal request shall be provided by the District within thirty (30) calendar days from receipt of the appeal request.
 3. If an appeal request is denied, the appellant may resubmit the appeal request to the District Board of Directors no later than fifteen (15) calendar days from the date of the denial.
 4. The appellant may request to provide evidence in writing or in person in support of his or her appeal.
 5. The decision by the District Manager or if appealed to the Board of Directors, their final decision, shall be final.

6. Within ten (10) days after the denial of the appeal is deemed final, the appellant shall pay any disputed penalty(ies) imposed by the District.
7. The provisions of Section 1094.6 of the Code of Civil Procedure of the State of California shall be applicable to judicial review of the decision.

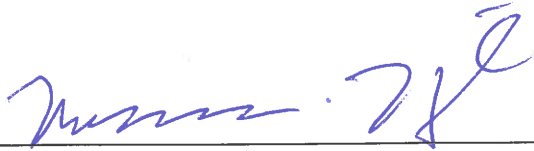
Section 7. Effective Date. This Ordinance shall become effective and in full force thirty days after its passage.

I HEREBY CERTIFY that the foregoing Ordinance was duly INTRODUCED at a regularly held meeting of the Board of Directors of the GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT on the 13th day of October, 2015, and was PASSED AND ADOPTED by the Board of Directors of the GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT on this 10th day of November, 2015, by the following vote:

AYES:

NOES:

ABSENT:



Norman A. Krizl, President
Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

ATTEST:



Wendell B. Wall, Clerk and ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of Ordinance 2015-02 duly and regularly adopted by the Board of Directors of the Georgetown Divide Public Utility District, El Dorado County, California, at a meeting duly held on the 10th day of November 2015.



Wendell B. Wall, Clerk and ex officio

Secretary of the

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT