

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF SOUTH BEND, INDIANA REPEALING CERTAIN
SECTIONS OF CHAPTER 17, ARTICLE 10 REGARDING
COMPACT FEES AND ASSESSMENTS AND REPLACING
SUCH FEES AND ASSESSMENTS WITH SYSTEM
DEVELOPMENT CHARGES

STATEMENT OF PURPOSE AND INTENT

The City of South Bend owns and operates a water and sewer utility. The South Bend City Code has contained, for many years provisions, which would impose compact fees and assessments for water and/or sewer utility service. The application of said compact fees and assessments has been inconsistent.

This Council has caused to be prepared a study which recommends system development charges to be imposed upon connection of new customers to its water or sewer utility and to new uses by existing customers that would materially change the demands on the water and/or sewer utility.

The City has determined that in place of compact fees for sewer service, the City should instead, recover an outside City surcharge for sewer service. Further, the City has determined that it is appropriate to implement system development charges for both water and sewer service which have been computed using what is known as the "Equity Method." It is appropriate to exempt connections to new structures which replace an older structure of similar use located on the same property.

Section 1. Sections 17-79 of the City Code shall be repealed in its entirety and amended to read as follows:

Sec. 17-79.—~~Water main lines within City limits; assessment of installation charges.~~ **System Development Charge for Wastewater inside and outside City limits.**

~~(a) City residential water main charges. All owners of single family residential property located within the corporate limits of the City shall be assessed a proportionate share of the cost of water main line installation computed at twenty three dollars and seventy five cents (\$23.75) per lineal foot (LF) of that water main line which is installed along the boundary of such parcel, at a total maximum rate of two thousand dollars (\$2,000.00) per single family residential parcel.~~

~~(b) City commercial/industrial water main charges.~~

~~(1) All owners of property used for commercial or industrial purposes located within the corporate limits of the City using twelve inch diameter main lines shall be assessed a proportionate share of the cost of water main line installation computed at the rate of thirty dollars and fifty three cents (\$30.53) per lineal foot (LF) of that water main line~~

which is installed along the boundary of such parcel, which assessment is not subject to a maximum rate cap.

- (2) All owners of real property located within the corporate limits of the City used for commercial or industrial purposes who require water main lines in excess of twelve-inch diameter shall be assessed a proportionate share of the cost of the water main line installation computed at the actual cost, based on time and materials.
- (3) All owners of property used for commercial or industrial purposes located within the corporate limits of the City using water main lines less than twelve-inch diameter shall be assessed the same rate as residential users, that is twenty-three dollars and seventy-five cents (\$23.75) per lineal foot (LF) without the maximum rate cap.

1. For purposes of this section "ERU" shall be defined as an equivalent residential unit which means a single family residence. For purposes of customers that are not single family residences, one ERU shall equal estimated wastewater flows of 310 gallons per day. No customer will be less than one ERU. There will be no partial ERU's. The City shall round down to the closest applicable ERU calculation at all times.

2. Except as provided in Subsections 5. and 6. of this Section, for every new connection to the South Bend Municipal Sewer Works, a system development charge of \$1,145 shall be collected per ERU and additional portion thereof to be connected. All charges shall be billed by paid to the City at the time the application for service connection is filed.

3. System development charges per ERU shall also be collected from existing customers undertaking activities producing a permanent increase in wastewater flow of greater than 150 310 gallons per day. This subsection shall not apply to an existing customer who has, by contract, purchased reserved capacity from the City so long as the customer's flows remain within the reserved capacity. A permanent increase shall be deemed to have occurred when the average flow rate for six (6) consecutive months exceeds the current flow rate by at least 310 gallons per day.

4. For multifamily structures (e.g., apartments, condominiums, mobile home communities), each individual unit shall be one ERU. For all other types of structures, the ERU calculation shall be based upon the ratio of Average Daily Flow as computed pursuant to 327 IAC 3-6-11 in relationship to 310 gallons per day. For structures not listed in 327 IAC 3-6-11, the ERU shall be calculated as the relationship between the Average Daily Flow reported in the sewer capacity certification for the structure and 310 gallons per day.

5. For customers with greater than 20 ERUs as calculated pursuant to subsection 4. of this Section, the ERU shall be adjusted based upon the Peaking Factor as computed herein. The Peaking Factor shall be calculated by dividing the Peak Daily Flow by the Average Daily Flow, both as reported in the sewer capacity certification. In no event will a Peaking Factor less than 2.0 be used for purposes of the adjustment described in this Subsection. The Peaking Factor divided by 4.0 (the Peaking Factor for residential connections) will be multiplied by the number of ERUs for purposes of computing the system development charge owed by the customer. The City Board of Works may execute a contract with the customer authorizing an increase to the initial System Development Charge based upon actual usage data that is collected after connection.

6. Where a prospective customer seeks to connect a new structure on property which replaces a prior structure of a similar use what was located on the same property and which was connected to the South Bend Municipal Sewer Works, no system development charge will be collected. **For instance, if the prior structure was a single family structure and the new structure is to be used as a multi-family structure, a system development charge, as contemplated herein this Ordinance, shall be charged. The Board of Public Works shall make the final determination of whether the new property structure is a similar use to the prior property structure for the purposes of this subsection.**

Section 2. Section 17-80 of the City Code shall be repealed in its entirety and amended to read as follows:

Sec. 17-80. ~~Water main line outside City limits; assessment of installation charges.~~ **System Development Charge for Water inside and outside City limits.**

~~(a) Non-City residential water main charges. All owners of single family residential property located outside the corporate limits of the City shall be assessed a proportionate share of the cost of water main line installation computed at twenty-eight dollars and fifty cents (\$28.50) per lineal foot (LF) of that water main line which is installed along the boundary of such parcel, which assessment is not subject to a maximum rate cap.~~

~~(b) Non-City commercial/industrial water main charges.~~

~~(1) All owners of property used for commercial or industrial purposes located outside the corporate limits of the City using twelve inch diameter or larger main lines shall be assessed a proportionate share of the cost of water main line installation computed at the rate of thirty-six dollars and sixty-four cents (\$36.64) per lineal foot (LF) of that water main line which is installed along the boundary of such parcel, which assessment is not subject to a maximum rate cap.~~

~~(2) All owners of real property located outside the corporate limits of the City, used for commercial or industrial purposes who require water main lines in excess of twelve-inch diameter shall be assessed a proportionate share of the cost of the water main line installation computed at the actual cost, based on time and materials, plus an additional~~

ten (10) percent for costs to the City associated with such extension. This assessment is not subject to a maximum rate cap.

- (3) All owners of property used for commercial or industrial purposes located outside the corporate limits of the City using water main lines less than twelve-inch diameter shall be assessed the same rate as non-City residential users, that is twenty-eight dollars and fifty cents (\$28.50) per lineal foot (LF), with no maximum rate cap.

1. For purposes of this section "ERU" shall be defined as an equivalent residential unit which means a single family residence. For purposes of customers that are not single family residences, one ERU shall equal estimated water flows of 310 gallons per day. No customer will be less than one ERU. There will be no partial ERU's. The City shall round down to the closest applicable ERU calculation at all times.

2. Except as provided in Subsections 5. and 6. of this Section, for every new connection to the South Bend Municipal Water Works, a system development charge of \$500 shall be collected per ERU and additional portion thereof to be connected. All charges shall be billed by paid to the City at the time the application for service connection is filed.

3. System development charges per ERU shall also be collected from existing customers undertaking activities producing a permanent increase in water flow of greater than 310 150 gallons per day. This subsection shall not apply to an existing customer who has, by contract, purchased reserved capacity from the City so long as the customer's flows remain within the reserved capacity. A permanent increase shall be deemed to have occurred when the average flow rate for six (6) consecutive months exceeds the current flow rate by at least 310 gallons per day.

4. For multifamily structures (e.g., apartments, condominiums, mobile home communities), each individual unit shall be one ERU. For all other types of structures, the ERU calculation shall be based upon the ratio of Average Daily Flow as computed pursuant to 327 IAC 3-6-11 in relationship to 310 gallons per day. For structures not listed in 327 IAC 3-6-11, the ERU shall be calculated as the relationship between the Average Daily Flow reported in the water capacity certification for the structure and 310 gallons per day.

5. For customers with greater than 20 ERUs as calculated pursuant to subsection 4. of this Section, the ERU shall be adjusted based upon the Peaking Factor as computed herein. The Peaking Factor shall be calculated by dividing the Peak Daily Flow by the Average Daily Flow, both as reported in the water capacity certification. In no event will a Peaking Factor less than 2.0 be used for purposes of the adjustment described in this Subsection. The Peaking Factor divided by 4.0 (the Peaking Factor for residential connections) will be multiplied by the number of ERUs for purposes of computing the system development charge owed by the customer. The

City Board of Works may execute a contract with the customer authorizing an increase to the initial System Development Charge based upon actual usage data that is collected after connection.

6. Where a prospective customer seeks to connect a new structure on property which replaces a prior structure of a similar use what was located on the same property and which was connected to the South Bend Municipal Water Works, no system development charge will be collected. For instance, if the prior structure was a single family structure and the new structure is to be used as a multi-family structure, a system development charge, as contemplated herein this Ordinance, shall be charged. The Board of Public Works shall make the final determination of whether the new property structure is a similar use to the prior property structure for the purposes of this subsection.

Section 3. Section 17-81 of the City Code shall be repealed in its entirety and amended to read as follows:

Sec. 17-81. -- Sewer main line; assessment of installation charges inside and outside City.

The sewer main line installation charge shall be assessed on a per square foot basis of property owned and applies to all property owners whether residential, commercial or industrial. However, owners of single family residential real property located within the corporate limits of the City shall be limited to a maximum charge of three thousand dollars (\$3,000.00) per single family residential tract. The rates below are rates for user/property owners inside the City limits as follows:

<u>Step of Block</u>	<u>Rate (\$/SF)</u>
1 st 25,000 sf	0.28
next 50,000 sf	0.22
next 50,000 sf	0.14
next 50,000 sf	0.08
over 175,000 sf (4 acres)	0.04

Non-City user installation assessment -- 110% of above rates with no cap.

For wastewater collection service rendered to customers whose connection is located outside the corporate limits of the City of South Bend, a surcharge of 0 14% will be charged prior to January 1, 2017, 7% surcharge will be charged from January 1, 2017 through December 31, 2017 and 14% surcharge from January 1, 2018 and beyond shall be added to the total amount billed. Notwithstanding the above, an Indiana municipality or special district organized under the laws of Indiana that is subject to this Section 17-81, who have adopted sewer rates under either Indiana Code 36-9-23 or Indiana Code 13-26-11 for the purpose of

providing such sewer service, shall be qualified for a credit in the amount of seven percent (7%) from January 1, 2017 through December 31, 2017 and fourteen percent (14%) from January 1, 2018 and beyond.

Section 4. Section 17-86(b) of the City Code shall be repealed in its entirety.

~~(b) As a further condition of a non-City resident tap into City sewer and/or water main lines, an owner of real property situated outside the City limits shall pay a compact fee annually to the City for one (1) utility (whether sewer or water service) which compact fee is thirty (30) percent of the difference between the County and City tax rates. If two (2) utilities (both sewer and water service) are used, then the annual compact fee shall be fifty (50) percent of the difference between the County and City tax rates.~~

Section 5. The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

Section 6. This Ordinance shall take effect upon its passage by this Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of South Bend, Indiana
this _____ day of _____, 2016.

President, Common Council of the
City of South Bend

ATTEST:

Kareemah Fowler, Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City for his approval on the _____ day of _____, 2016, at _____ o'clock _____.m.

Kareemah Fowler, Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of South Bend, approve said Ordinance and return the same to the Clerk of the City of South Bend this _____ day of _____, 2016.

Pete Buttigieg, Mayor

