

AN ORDINANCE TO ADOPT SYSTEM DEVELOPMENT FEES FOR THE WATER AND SEWER SYSTEM AS AUTHORIZED BY ARTICLE 8 OF CHAPTER 162A OF THE NORTH CAROLINA GENERAL STATUTES.

WHEREAS, the North Carolina General Assembly has enacted Session Law 2017-138 (HB 436), known as the "Public Water and Sewer System Development Fee Act" amending Chapter 162A of the Generals Statutes to add a new Article 8, titled System Development Fees; and

WHEREAS, said statutes authorize the procedures and methods for the calculation and authorization of system development fees to be charged by local governments; and

WHEREAS, the Town of Black Mountain contracted with professional consulting engineers McGill Associates, to perform the system development fee analysis per the requirements of Session Law 2017-138, having posted public notice and written analysis on its website beginning May 23, 2019 and also provided means to solicit comments both through the website and via written means through the U.S. Mail, and has held a properly advertised public hearing on July 8, 2019, to receive additional public comments; and

WHEREAS, said statutes define a System Development Fee as a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup the costs of existing facilities which serve such new development, or a combination of those cost; and

WHEREAS, said statutes provide that System Development Fees may be collected for new development which increases the capacity necessary to serve that development as further described below.

(A) (1) System development fees shall be charged with respect to new development to fund costs of capital improvements to recoup a combination of costs consisting of the cost of existing facilities which serve such new development and the incremental cost of capital assets required for preserving and/or providing additional system capacity. System development fees shall be charged consistent with the requirements of G.S. Ch. 162A, Article 8 as such may be amended from time to time. Terms used in this section shall have the same meanings as set forth in G.S. Ch. 162A, Article 8.

(2) For purposes of this section, **NEW DEVELOPMENT** includes any of the following occurring after April 8, 2019 (the date the town began the written analysis process required by G.S. § 162A-205) that increases the water and/or sewer capacity necessary to serve that development:

- (a) The subdivision of land;
- (b) The construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure which increases the number of service units; or
- (c) Any use or extension of the use of land which increases the number of service units.

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(B) Beginning on the effective date of this section, system development fees shall apply to all new development except for fire line connections.

(C) System development fees shall not include and separate charges may be assessed for:

(1) A charge or fee to pay administrative, plan review, or inspection costs associated with permits required for development.

(2) Tap or hookup charges for the purpose of reimbursing the town for the actual costs of connecting the service unit to the system.

(3) Availability charges.

(4) Dedication of capital improvements onsite, adjacent, or ancillary to a development absent a written agreement providing credit or reimbursement to the developer pursuant to G.S. §§ 160A-320, 160A-499 or G.S. Ch. 160A, Art. 19, Part 3D as the same may be amended from time to time.

(5) Reimbursement to the town for its expenses in constructing or providing for water or sewer utility capital improvements adjacent or ancillary to the development if the owner or developer has agreed to be financially responsible for such expenses; however, such reimbursement shall be credited to any system development fee charged as required per G.S § 162-207(c).

(D) System development fees will not be charged on buildings or other improvements constructed to replace like buildings provided that the replacement will not result in any increased capacity requirements over that required to serve the replaced building. System development fees are transferable between locations on different parcels of property as long as the parcels are contiguous or separated only by a street or alley and part of a single or multi-phased project shown on an approved site plan at the time of issuance of a building permit.

(E) (1) For new development involving the subdivision of land, the system development fee shall be collected at the later of the time of plat recordation, or when water or sewer service is committed by the town.

(2) For all other new development, system development fees are due at the earlier of the time of application for connection of the individual unit of development to the service or facilities, or when water or sewer service is committed by the town.

(3) For purposes of this section, water service shall be deemed committed by the town at such time as the Public Works Department has approved the connection and building permit(s) for the development are issued. Fees shall be assessed based on the schedule of fees in effect at the time the fees are collected.

(F) Additions, alterations to or replacements or change in use of existing buildings shall be required to pay a system development fee based on the rates applicable at the time of connection or at the time such addition, alteration, replacement or change in use is placed into service. When a change in use occurs, the new use will pay the difference calculated between the existing use and the proposed use.

(G) Buildings that contain more than one use shall have the system development fee calculated from the sum of each use in the building.

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(H) (1) The system development fee shall be paid for connections to the town municipal water system based on the customer's calculated anticipated daily flow rate in gallons per day (GPD), in an amount not to exceed the calculated charge based on the cost per gallon development costs as defined herein multiplied by the daily flow rate set out in the North Carolina Administrative Code sections referenced herein. The system development fee shall be the same regardless of the customer's location inside or outside the municipal limits of the town. At the time of adoption of this Ordinance, the calculated cost per gallon as determined by McGill Associates is \$14.78.

(2) System development fees shall be based on the calculated (GPD) flow rate of the anticipated use or increase in use of the proposed structure. Flow rates shall be determined in accordance with the flow rates established in the North Carolina Administrative Code, 15A NCAC 2T.0114 and 15A NCAC 18C.0409 as such may be amended from time to time. A licensed professional engineer is required to calculate flow rates for other uses not included within the North Carolina Administrative Code, 15A NCAC 2T.0114 and 15A NCAC 18C.0409. The Town of Black Mountain shall not incur any expense associated with this requirement.

(I) In calculating system development fees with respect to new development, the town will credit the value of costs in excess of the development's proportionate share of connecting facilities required to be oversized for use of others outside of the development. No credit shall be applied, however, for water or sewer capital improvements on-site or to connect new development to water or sewer facilities.

(J) All system development fees collected by the town shall be deposited to the town's water capital reserve funds and expended as provided by G.S. § 162A-211, as such may be amended from time to time.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN THAT:

The Water System Development Fee Study prepared by McGill Associates, and published May, 23 2019, is adopted to assist in establishing Black Mountain's Water System Development Fee Charges, which shall be established annually and published as part of the Town's fee schedule within the Annual Budget Ordinance.

These System Development Fees shall be effective July 8, 2019, and shall be published annually in the Town's budget, or associated fee schedule. The system development fee calculation shall be updated at least every five (5) years or as required by G.S. Ch. 162A, Article 8.

I move the adoption of the foregoing ordinance. Maggie Tuttle, Vice Mayor

READ, APPROVED AND ADOPTED, by a vote of 5 to 0 this the 8th day of July, 2019.

ATTESTED:

Don Collins, Mayor

Angela Reece, Town Clerk