

Substitute Bill No. 23-16

Ordinance No. 10440-16

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING CHAPTER 17 OF *THE SOUTH BEND MUNICIPAL CODE* TO
INCLUDE NEW RULES AND REGULATIONS FOR ASSESSMENT OF
INSTALLATION CHARGES**

STATEMENT OF PURPOSE AND INTENT

Chapter 17, Article 10 of the *South Bend Municipal Code* (the *Code*) contains sections involving construction fees for water and sewer installation. In particular, it addresses assessment of installation charges, which are fees intended to recoup the city's investment in the installation of water mains and sewers. Users wishing to connect to the system are charged a standard rate based on the size and/or dimension of their property.

The purpose of this ordinance is to establish a legal basis for the City to waive assessment fee back payments from users prior to September 1, 2016.

Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana as follows:

Section I. Chapter 17, Article 10 of the *South Bend Municipal Code* shall be amended to read in its entirety as follows:

Sec. 17-79. - Water main lines within City limits; assessment of installation charges.

- (a) *City residential water main charges.* All owners of single family residential property located within the corporate limits of the City of South Bend 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 of South Bend using 12" 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 of South Bend 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 of South Bend 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.

Sec. 17-80. - Water main line outside City limits; assessment of installation charges.

(a) *Non-City residential water main charges.* All owners of single family residential property located outside the corporate limits of the City of South Bend 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 of South Bend 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 of South Bend, 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 of South Bend 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.

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.

Sec. 17-82. - Effective date of charge assessment.

All charges and rates fixed by this article shall be effective at the time that connection is made from the owner's property to the City sewer and/or water main line(s). The rates set forth in this article are separate and distinct from usage rates, tap and other non-recurring charges, water and sewer service fund charges, availability fees, and other similar charges provided elsewhere under this chapter.

Sec. 17-83. - Owner responsible for connection costs to main line.

All costs or charges for making the physical connection from the affected real property to the City-installed sewer or water main line shall be the responsibility of the owner, and these are separate and distinct from the charges set forth in this article. The property owner shall engage a licensed plumber to make any such lateral connection from the sewer and/or water main line to the property or building. All such materials and installations shall be in compliance with Engineering Department standards and any applicable Building or Plumbing Code.

Sec. 17-84. - Party responsible for payment of charge.

The owner of the property as determined by the record of deeds in the Office of the Recorder of St. Joseph County shall be responsible and liable for the sewer and/or water installation construction charges required by this article.

Sec. 17-85. - Methods of payment; prepayment with discount; installment plan.

- (a) The property owner may pay all charges in full prior to time the installation work is commenced. Prepayment of expenses in advance under this section shall entitle the owner to a ten (10) percent discount of the total charge.
- (b) A single family residential real property owner may pay the charges under this article by sixty (60) monthly installment payments with interest at the rate of two (2) percent below the City's prime borrowing rate established by the Board of Public Works by December 1 of each year for the following calendar year. The interest at the commencement of the residential owner's sixty-month payment plan shall be constant throughout the sixty-month term. The installment payment under this section shall be added to the monthly sewer/water bill and paid in the same manner and under the same conditions as the

monthly water service charges. However, a subsequent owner shall pay in a lump sum at the time of sale of the water and or sewer served real property any balance remaining on the previous owner's obligation for sewer and/or water main extensions under this section.

- (c) Notwithstanding the foregoing, an owner of vacant real property served by a sewer and/or water main installed by the City shall fully assume and pay the maximum construction charge assessable under this article upon construction of any improvement to the vacant land. If the land is in the City limits at commencement of construction, City rates shall apply. If the land is outside City limits at the commencement of construction, non-City rates shall apply. However, the Board of Public Works may make exceptions for an owner of real property outside the City who qualifies for annexation to the City under the requirements of state statute (IC 36-4-3-1 et seq.) and who has irrevocably petitioned for annexation contemporaneously with hook-up to municipal utility lines.

Sec. 17-86. - Waiver of annexation and City compact fees.

- (a) In consideration for the City's extension of sewer and/or water main lines to areas outside City limits, the owner of any such real property located outside City limits who wishes to connect to a City main line shall execute a waiver of right to demonstrate against annexation as a condition of tapping into the City's main line.
- (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.

Sec. 17-87. - Prior contracts unaffected; Exemptions.

- (a) Owners who have either executed a permit to connect or who connected to the City's sewer or water line prior to September 1, 2016 shall be exempt from assessment fees.
- (b) The rates set forth in this article shall not apply to user contracts executed with the City prior to the effective date of this article. For all such users, the contract rate shall apply and the terms of the contract shall supersede this article.
- (c) Notwithstanding anything contained herein this Chapter 17, Article 10, the City reserves the right to retain any assessment which has been collected prior to January 1, 2016.

Sec. 17-88. - Board of Works rate modification.

The Board of Works shall, as needed, recommend any modification to the rates established in this article to reflect fluctuations in construction costs.

Section II. This Ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and any publication required by law.

Tim Scott, President of the Common Council

Passed on June 27, 2016 by the Common Council of the City of South Bend, Indiana.

Presented to approved and signed by Mayor Peter Buttigieg on June 29, 2016.

Approved: Tim Scott, President of the Common Council

Kareemah Fowler, City Clerk