

Draft ordinance. If adopted, the final ordinance may differ from this draft as a result of comments received from the public or direction received from the City Council at the public hearing to be held on March 7, 2024 at 5:45 pm, City Operations Center, 305 Williams St, Hendersonville, NC.

Ordinance # ____ - ____

AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO ADOPT A SYSTEM DEVELOPMENT FEE ANALYSIS, TO AMEND CHAPTER 52 ARTICLE I AND II OF THE HENDERSONVILLE CITY CODE OF ORDINANCES AND TO AMEND THE 23-24 BUDGET ORDINANCE TO ADOPT AND IMPLEMENT A SYSTEM DEVELOPMENT FEE

WHEREAS, the City Council of the City of Hendersonville (“City Council”) advertised a public hearing to be held on March 7, 2024 indicating its intent to establish and implement a System Development Fee ("SDF") for water and sewer services in accordance with North Carolina General Statute 162A Article 8 titled "System Development Fees"(the "Act") effective July 1, 2018, and N.C.G.S. § 160A-314; and

WHEREAS, the City Council has the obligation to ensure there is sufficient water and sewer capacity available for public health and welfare of the community; and

WHEREAS, the City Council is of the opinion and declares SDFs as the mechanism for the growth requiring water and sewer service(s) to contribute to the cost for the City to provide water and sewer service capacity and to minimize the extent in which existing customers must bear the cost to construct water and sewer capacity infrastructure and facilities; and

WHEREAS, the City Council advertised a public hearing to be held March 7, 2024 indicating its intent to adopt and implement SDFs through the adoption of this Ordinance to approve the system development fee analysis, to amend Chapter 52, Article I and II of the City of Hendersonville Code of Ordinances, and to amend the 23-24 Budget Ordinance to adopt and implement SDFs for the City of Hendersonville water and sewer services.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina as follows:

Section I. Amendment to Chapter 52, Article I of the City of Hendersonville Code of Ordinances

There shall be added the following section 52-14 to Chapter 52, Article I of the City of Hendersonville Code of Ordinances, Commitment of Service.

Sec. 52-14. Commitment of Service.

Utility service shall be deemed committed for single family dwelling units, multifamily dwelling units, and nonresidential structures and uses of land as follows:

- (1) Utility service has already been established as of March 7, 2024, meaning that a meter has been set by the City and utility service is actually being provided by the City as of March 7, 2024; or
- (2) For new service applied for before March 7, 2024, (a) a complete application for utility service has been received; (2) all applicable fees required for the new meter have been received by the City and (3) a building permit has been issued (not required for open uses of land involving no structures); or
- (3) A letter of commitment has been issued pursuant to Section 52-27(6) of this chapter.

Section II. Amendment to Chapter 52, Article II of the City of Hendersonville Code of Ordinances, Rates and Charges.

There shall be added the following new sections to Chapter 52, Article II of the City of Hendersonville Code of Ordinances, Rates and Charges.

Sec. 52-57. System Development Fees.

- (1) Methodology Used in Development of SDFs. In accordance with the Act, the cost for additional capacity to serve new customers was determined by a qualified financial professional and was estimated on a per gallon per day ("gpd") of existing customers across various customer type categories. The City engaged Stantec Consulting Services, Inc. to complete a written analysis to determine such cost and to develop cost-justified water and sewer SDFs, such analysis to be posted on the City's website, as updated from time to time (the "SDF Report"). The City Council finds that the written analysis process began on September 9, 2022. The SDF was determined by using the Combined Approach, which takes a combination of the Buy-In and Marginal Incremental approaches and uses existing assets and capacity and combines that with planned capital improvements and additional capacity that will be constructed to calculate a blended value of both the existing and expanded system capacity. The cost of capacity per gallon

per day (gpd) was calculated to be \$7.01 per gpd for water system capacity and \$11.04 per gpd for sewer system capacity.

(2) Adoption of the SDF Report. The SDF Report prepared by Stantec Consulting Services, dated October 30, 2023, is hereby adopted.

(3) Definitions.

(a) *Application* means an application, submitted to the appropriate governmental authority, for a permit, approval, or service, or for an approval or an authorization to undertake a regulated activity. An application will not be considered complete until all form(s), documents, plans, studies or other information required by law or by policy of the issuing agency have been submitted and all fees required for the application to be processed have been paid.

(b) *Completeness determination* means the process of determining if an application is or is not complete.

(c) *Development* means:

i. The subdivision of land;

ii. One or more, or the addition, construction or expansion of one or more, dwelling units, buildings, structures or uses on a single tract of land, whether such tract of land is within a subdivision or not; or

iii. One or more, or the addition, construction, or expansion of one or more dwelling units, buildings, structures or uses that are being developed under a common scheme of development on more than one tract of land, whether such tracts of land are within a subdivision or not.

(d) *Development permit* means an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal pursuant to a land development regulation, including zoning compliance permits, site plan approvals, special use permits, variances, certificates of appropriateness, plat approvals, development agreements, state agency permits for development, driveway permits, or erosion and sedimentation control permits.

(e) *Increase in capacity necessary to serve a development* means new development that requires additional water or sewer capacity to serve a development than is being provided to the development prior to the new development. As an example, for a subdivision approved for the construction of an individually metered residential dwelling unit on each lot within the subdivision, it is the construction of each residential dwelling unit based on that dwelling unit's heated square footage within the subdivision that causes an increase in capacity necessary to serve the

subdivision rather than the subdivision itself, and thus the construction of each new individually metered dwelling unit would be considered new development as defined in Subsection 52-57(3)(h)(ii). As another example, for an existing commercial, multi-building development served by a master meter, the addition of a new building within the multi-building development would not be an increase in capacity necessary to serve a development if the existing master meter serving the development is of sufficient size to serve the both the new building and the existing buildings within the development, and thus the addition of the new building would not be considered new development. As a third example, for a multi-family master metered residential development, the addition of each new residential dwelling unit will increase the capacity required to serve the development and thus each new residential dwelling unit would be considered new development as defined in Subsection 57(3)(h)(ii). As fourth example, for an existing individually metered single family dwelling unit with 2,000 heated square feet, either the addition of 1,501 heated square footage or an accessory dwelling unit of 1,501 heated square footage will increase the capacity required to serve the development and therefore either increase in heated square footage would be considered new development as defined in Subsection 57(3)(h)(ii).

- (f) *Individually metered* means that a building, structure or use of land has a unique meter serving such building, structure or use of land, and serving no other building, structure or use of land. Notwithstanding the foregoing, a primary dwelling unit and its accessory dwelling unit shall, for purposes of this Section 52-57, be considered as a single residential dwelling unit that is individually metered if they are served by the same meter.
- (g) *Letter of commitment* means a letter issued by the City of Hendersonville approving the provision of water or sewer capacity for new development. Notwithstanding the issuance of a Letter of Commitment, water or sewer capacity shall not be deemed “committed” by the City of Hendersonville until the circumstances outlined in Subsection 52-57 (7), below, have occurred for the new development.
- (h) *Master meter* means a water meter serving a common parcel with a single or multiple structures under single ownership generally containing residential leased units, or commercial/industrial sites. Common residential master metered uses include but are not limited to multi-family apartments, condominiums, mobile home parks, RV parks, and tiny home parks.
- (i) *New Development* means any of the following occurring after March 7, 2023, which increased or increases the capacity necessary to serve a development. It is specifically acknowledged that one or more of the following may occur and increase the capacity necessary to serve a particular development, and therefore one or more of the following may trigger the assessment of a system development fee for the same development. Notwithstanding the foregoing, only one SDF may be collected for each increase in capacity required for the particular development.

- i. The subdivision of land. As used herein, the date of subdivision shall be deemed to be the date of the recording of the subdivision plat in the appropriate Register of Deeds Office for the subdivision. For subdivisions containing more than one phase, the date of subdivision shall be determined separately for each phase, and shall be the date of the recording of the subdivision plat in the appropriate Register of Deeds Office for each phase of the subdivision; or
 - ii. The construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure which increases the number of service units. As used herein, the date of construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement shall be the date that a building permit is issued by the appropriate governmental agency, or if a building permit is not required, the earliest date that any development permit is issued by the appropriate governmental agency; or
 - iii. Any use or extension of the use of land which increases the number of service units. The date of the use or extension of land shall be deemed to be the earliest date that a development permit is issued by the appropriate governmental agency, or if no development permit is required, the date that the use or extension of the use that increases the number of service units is established.
- (j) *Structure* means any building or other structure containing a use that is served by the water system and/or sewer system of the City of Hendersonville.
- (k) *Subdivision of land* means the division of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and includes all divisions of land involving the dedication of a new street or a change in existing streets, but excluding those matters exempted from regulation under Chapter 160D, Article 8, Subdivision Regulation, pursuant to N.C.G.S. § 160D-802(a).
- (l) *System Development Fee(s)* (the “SDF” or “SDFs”) are charges or assessments for service, including service provided pursuant to a wholesale arrangement, imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs, and adopted pursuant to the authority of North Carolina General Statutes Chapter 162A, and pursuant to the general rate making authority of the City as provided in N.C.G.S. § 160A-314.
- (4) Adoption of SDFs. SDFs shall be as adopted from time to time, but no less than annually, by the City Council, and on file in the City Clerk’s office. SDFs may be adopted or amended as part of the fee schedule adopted in the annual budget ordinance for the City. SDFs shall be assessed and collected for all new development served by the City’s water system and/or sewer system.

(5) Assessment of SDFs. For new development, SDFs shall be assessed as follows:

- (a) Residential Individually Metered. An SDF shall be assessed for each residential dwelling unit, such as single-family homes, accessory dwelling units, duplexes, townhomes, and mobile homes, that is individually metered, and shall be calculated on a heated square footage basis. Each individually metered residential dwelling unit shall be considered as a service unit evaluated by heated square footage size. For the purpose of assessment of a SDF, the total dwelling unit heated square footage shall be calculated as the sum of heated square footages of the primary and accessory dwelling units served by the same meter.
 - (b) Residential Multi-Family Master Metered. An SDF shall be assessed for structure(s) containing attached residential dwelling units, such as apartments and condominiums, that is/are master metered, and shall be calculated on a per multi-family residential dwelling unit basis. Each residential dwelling unit within a multi-family master-metered development shall be considered as a service unit.
 - (c) Residential Mobile Homes Master Metered. An SDF shall be assessed for a mobile home park that is master metered and shall be calculated on a per mobile home residential unit basis. RV Parks and Tiny Home Parks that are master metered shall be considered and assessed a SDF as non-residential new development. Each space within master-metered mobile home development capable of being occupied by a mobile home residential unit shall be considered as a service unit, regardless of whether or not a mobile home residential unit occupies the space.
 - (d) Non-Residential. An SDF shall be assessed for non-residential buildings, structures or uses of land, and shall be calculated based on a meter size or equivalent meter size basis for the master meter that will serve the non-residential buildings, structures or uses of land. Each meter size or equivalent meter size shall be considered as a service unit.
 - (e) Residential/Non-Residential Master Metered - Mixed Use Structures. An SDF shall be assessed for residential/non-residential mixed-use structure(s) that is/are master metered, and shall be calculated as the sum of the following:
 - i. the number of multi-family residential units multiplied by the per residential unit rate, plus;
 - ii. the size of the meter or meters that would be required for just the non-residential space. Common areas shall be considered as non-residential space.
 - (f) Other Connections. All other connections, including but not limited to irrigation connections, wholesale connections, institutional connections, or those not involving a structure, shall be assessed, and calculated as non-residential.
- (6) Letter of Commitment. A Letter of Commitment shall be required for the provision of water or sewer service for any new development. A letter of commitment will be issued

upon receipt and approval of a complete water or sewer application by the City and payment of an SDF by the applicant.

- (a) For new development requiring an engineering plan approval, the extension plan or utility connection plan must be approved by the City before the application for letter of commitment may be submitted.
 - (b) Applications for letter of commitment submitted before an engineering approval for the extension plan or utility connection plan will not be eligible for issuance of a letter of commitment.
 - (c) For all new development requiring a building permit, an application for a building permit, containing all information required by the issuing agency other than the letter of commitment, must be submitted to the appropriate agency prior to submitting an application for a letter of commitment.
 - (d) A building permit will not be issued until a letter of commitment from the City of Hendersonville is presented to the issuing agency. Building permits are issued by the Henderson County or Buncombe County Permits and Inspections Departments.
- (7) Commitment of Water or Sewer Capacity. For all new development, water or sewer capacity shall be deemed committed upon the following circumstances:
- i. Individually Metered. For all dwelling units, structures or uses of land that will be individually metered, water or sewer capacity shall be committed for each individually metered dwelling unit, structure or use of land independently of all other individually metered dwelling units, structures or uses of land, and shall be deemed to be committed for a dwelling unit, structure or use of land when the assessed SDF for the dwelling unit, or for a nonresidential structure or other use of land the SDF for the water or sewer capacity, has been paid and a letter of commitment has been issued for the dwelling unit, structure or use of land.
 - ii. Master-Metered. For all dwelling units, structures or uses of land that will be served by a master or common meter, water or sewer capacity will be committed for all dwelling units, structures and uses of land to be served by the common or master meter at the same time, and shall be deemed committed for all dwelling units, structures and uses of land to be served by the common or master meter when the assessed SDF for the master or common or master meter has been paid and a letter of commitment has been issued for all of the dwelling units, structures and uses of land to be served by the common or master meter.

iii. Subdividing of Land. Where the subdivision of land will increase the capacity necessary to serve the subdivision without the construction or addition of residential units or structures, water or sewer capacity will be deemed committed when the assessed SDF for the subdivision has been paid and a letter of commitment has been issued for the subdivision.

(8) Utilization of SDFs and SDF Ordinance. The Utilities Director shall administer the assessment of SDFs and this Section 52-57, and shall ensure that the City Council is provided with sufficient financial information to allow the setting of appropriate financial policies. The Utilities Director shall establish and maintain records, which are consistent with the City of Hendersonville's annual budget, this Section 52-57 and the appropriate North Carolina statutes.

(9) Generally Applicable Provisions.

(a) The acquisition of water or sewer capacity through payment of a SDF is non-transferrable from parcel to parcel. A parcel shall mean a tract of land having its own legal description.

(b) Construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure which increases the number of units of service shall be assessed a SDF for the differential in service units using current rates in accordance with the most recently adopted fee schedule. Notwithstanding the foregoing, new development which does not increase the number of service units for a residential individually metered connection by more than 150% shall not be assessed a SDF reflecting the differential in service units. Construction, reconstruction, redevelopment, conversion, structural alteration, or relocation of any structure which decreases the number of units of service shall not be refunded a SDF for the differential in service units using current rates in accordance with the most recently adopted fee schedule.

(10) Completeness determination.

(a) Applicants shall submit applications under this Chapter in accordance with terms and requirements of this Chapter and the policies of the Hendersonville Utilities Department. *Until an application is determined to be complete an application has not been submitted.*

(b) On receiving an application under this Chapter, the Utilities Department personnel designated by the Utilities Director shall determine whether the application is complete or incomplete.

(c) On determining that the application is incomplete, the designated personnel shall, as appropriate, provide the applicant with written notice of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for a completeness

review. If the applicant fails to resubmit an application within thirty (30) consecutive calendar days after being first notified of submittal deficiencies, the application submittal shall be considered abandoned. The thirty (30) day period may be extended by the designated personnel.

(d) On determining that the application is complete, the designated Utilities Department personnel shall accept the application as submitted and provide the applicant with written notice of application submittal acceptance.

Section III. Amendment to the Budget Ordinance to Adopt the SDF Rate/Schedule of Fees

Section 8 of the Fiscal Year 2023-24 Budget Ordinance for the City of Hendersonville shall be amended to adopt and incorporate the System Development Fee Schedule pursuant to Section 52-57(4) of the Code of Ordinances for the City of Hendersonville, as follows:

Residential

Property Type	Water	Sewer	Combined
Residential – Individually Metered (Heated sq. ft.)			
<1,000	\$1,247	\$2,048	\$3,295
1,000 - 1,500	\$1,332	\$2,188	\$3,519
1,501 - 2,000	\$1,359	\$2,233	\$3,592
2,001 - 2,500	\$1,443	\$2,370	\$3,813
2,501 - 3,000	\$1,500	\$2,465	\$3,965
3,001 - 3,500	\$1,613	\$2,650	\$4,263
3,501 - 4,000	\$1,724	\$2,833	\$4,558
Over 4,000	\$1,992	\$3,273	\$5,265
Multi-Family per-unit Master-Metered	\$894	\$1,469	\$2,364
Mobile Homes per unit Master Metered Park	\$1,399	\$2,299	\$3,699

Non-Residential

Meter Size	Water	Sewer	Combined
3/4"	\$2,494	\$4,097	\$6,591
1"	\$4,156	\$6,828	\$10,984
1.5"	\$8,312	\$13,657	\$21,969
2"	\$13,300	\$21,850	\$35,150
3"	\$29,093	\$47,798	\$76,891
4"	\$52,368	\$86,036	\$138,405
6"	\$108,062	\$177,535	\$285,597
8"	\$232,748	\$382,383	\$615,131

Meter Size	Water	Sewer	Combined
10"	\$349,122	\$573,575	\$922,697

Section IV. It is the intention of the city council and it is hereby ordained, that the provisions of Section I and II of this ordinance shall become and be made part of the Code of Ordinances, City of Hendersonville, North Carolina, and the sections of Section I and II of this ordinance may be renumbered to accomplish such intention.

Section V. Effective Date

This Ordinance shall be effective upon adoption and shall apply to all new development occurring after the March 7, 2023.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 7th day of March, 2024.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Jill Murray, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA, COUNTY OF HENDERSON

I, _____, a Notary Public in Henderson County, State of North Carolina, do hereby certify that Barbara G. Volk in her capacity of Mayor of the City of Hendersonville; Jill Murray, in her capacity of City Clerk; and Angela S. Beeker, in her capacity as City Attorney, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this _____ day of _____, 20__.

My commission expires:
