

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 873

Short Title: System Development Fee/Clarify Time of Charge. (Public)

Sponsors: Representatives Arp, Boles, and McNeill (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE TIMING OF COLLECTION OF SYSTEM DEVELOPMENT FEES FOR EACH CATEGORY OF NEW DEVELOPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-213 reads as rewritten:

"§ 162A-213. **Time for collection of system development fees.**

(a) Land Subdivision. – For new development ~~involving the subdivision of land, as defined in G.S. 162A-201(6)a., the system development fee shall be collected by a local governmental unit~~ shall specify in the resolution or ordinance adopting the system development fee at the later of either of the following: which of the following events the system development fee shall be collected:

a. The time of plat recordation.

b. When water or sewer service is committed by the local governmental unit.

(b) ~~Other~~ New Construction Development. – For ~~all other new development,~~ development as defined by G.S. 163A-201(6)b. or c., the local governmental unit shall collect specify in the resolution or ordinance establishing the system development fee at which of the following events the system development fee at the earlier of either of the following: shall be collected:

a. The time of application for connection of the individual unit of development to the service or facilities.

b. When water or sewer service is committed by the local governmental unit.

(c) Reconstruction and Redevelopment. – For new development as defined by G.S. 163A-201(6)d., the local governmental unit shall collect the system development fee at the time of issuance of the permit under Part 4 of Article 18 of Chapter 153A of the General Statutes or Part 5 of Article 19 of Chapter 160A of the General Statutes. If the local governmental unit collecting the system development fee is not the same as the one issuing the permit under Part 4 of Article 18 of Chapter 153A of the General Statutes or Part 5 of Article 19 of Chapter 160A of the General Statutes, the one issuing the permit shall notify the local governmental unit imposing the fee of the application for a permit.

(d) Default. – If the resolution or ordinance establishing the system development fee is silent as to the time of collection, the system development fee shall be collected at the time water or sewer service is committed by the local governmental unit.



1 (e) Amount of Fee. – When imposing and collecting any system development fee, the
2 amount of the system development fee to be imposed is the system development fee, as adopted
3 by the local governmental unit, in effect on the date the new development action occurs."

4 **SECTION 2.** G.S. 162A-201 reads as rewritten:

5 **"§ 162A-201. Definitions.**

6 ...

7 (2) Capital rehabilitation project. – Any repair, maintenance, modernization,
8 upgrade, update, replacement, or correction of deficiencies of a facility,
9 including any expansion or other undertaking to increase the preexisting level
10 of service for ~~existing development.~~

11 (3) ~~Existing development. – Land~~ subdivisions, structures, and land uses in
12 existence at the start of the ~~written system development fee analysis process~~
13 ~~required by G.S. 162A-205, no and~~ more than one year prior to the adoption
14 of a system development fee.

15 ...

16 (6) New development. – Any of the following ~~occurring after the date a local~~
17 ~~government begins the written analysis process required by G.S. 162A-205,~~
18 ~~no more than one year prior to the adoption of a system development fee,~~
19 actions with respect to real property which increases the capacity necessary to
20 serve that development:

21 a. The subdivision of land.

22 b. ~~The construction, reconstruction, redevelopment, conversion,~~
23 ~~structural alteration, relocation, or enlargement of any structure~~ Initial
24 construction on undeveloped property which increases the number of
25 service units.

26 c. Any use or extension of the use of land which increases the number of
27 service units.

28 d. Reconstruction, redevelopment, conversion, structural alteration,
29 relocation, or enlargement of any structure on developed property
30 which requires an expansion of capacity.

31 ...

32 (9) System development fee. – A charge or assessment for service imposed ~~with~~
33 ~~respect to~~ upon new development to fund costs of capital improvements
34 necessitated by and attributable to such new development, to recoup costs of
35 existing facilities which serve such new development, or a combination of
36 those costs, as provided in this Article. The term includes amortized charges,
37 lump-sum charges, and any other fee that functions as described by this
38 definition regardless of terminology. The term does not include any of the
39 following:

40 a. A charge or fee to pay the administrative, plan review, or inspection
41 costs associated with permits required for development.

42 b. Tap or hookup charges for the purpose of reimbursing the local
43 governmental unit for the actual cost of connecting the service unit to
44 the system.

45 c. Availability charges.

46 d. Dedication of capital improvements on-site, adjacent, or ancillary to a
47 development absent a written agreement providing for credit or
48 reimbursement to the developer pursuant to G.S. 153A-280,
49 153A-451, 160A-320, 160A-499 or Part 3A of Article 18, Chapter
50 153A or Part 3D of Article 19, Chapter 160A of the General Statutes.

- 1 e. Reimbursement to the local governmental unit for its expenses in
2 constructing or providing for water or sewer utility capital
3 improvements adjacent or ancillary to the development if the owner or
4 developer has agreed to be financially responsible for such expenses;
5 however, such reimbursement shall be credited to any system
6 development fee charged as set forth in G.S. 162A-207(c).

7"

8 **SECTION 3.** G.S. 162A-203(a) reads as rewritten:

9 "(a) A local governmental unit may adopt and impose a system development fee for water
10 or sewer service on new development only in accordance with the conditions and limitations of
11 this Article."

12 **SECTION 4.** G.S. 162A-205 reads as rewritten:

13 **"§ 162A-205. Supporting analysis.**

14 (a) A system development fee shall be calculated based on a written analysis, which may
15 constitute or be included in a capital improvements plan, that:

- 16 (1) Is prepared by a financial professional or a licensed professional engineer
17 qualified by experience and training or education to employ generally
18 accepted accounting, engineering, and planning methodologies to calculate
19 system development fees for public water and sewer systems.
20 (2) Documents in reasonable detail the facts and data used in the analysis and their
21 sufficiency and reliability.
22 (3) Employs generally accepted accounting, engineering, and planning
23 methodologies, including the buy-in, incremental cost or marginal cost, and
24 combined cost methods for each service, setting forth appropriate analysis as
25 to the consideration and selection of a method appropriate to the
26 circumstances and adapted as necessary to satisfy all requirements of this
27 Article.
28 (4) Documents and demonstrates the reliable application of the methodologies to
29 the facts and data, including all reasoning, analysis, and interim calculations
30 underlying each identifiable component of the system development fee and
31 the aggregate thereof.
32 (5) Identifies all assumptions and limiting conditions affecting the analysis and
33 demonstrates that they do not materially undermine the reliability of
34 conclusions reached.
35 (6) Calculates a final system development fee per service unit of new
36 development and includes an equivalency or conversion table for use in
37 determining the fees applicable for various categories of demand.
38 (7) Covers a planning horizon of not less than five years nor more than 20 years.
39 (8) Is adopted by resolution or ordinance of the local governmental unit in
40 accordance with G.S. 162A-209.

41 (b) For purposes of this section, new development shall include only that new
42 development occurring after the date a local government begins the written analysis process
43 required by G.S. 162A-205, no more than one year prior to the adoption of a system development
44 fee."

45 **SECTION 5.** G.S. 162A-209(b) reads as rewritten:

46 "(b) After expiration of the period ~~for posting~~, in subsection (a) of this section,
47 governing body of the local governmental unit shall conduct a public hearing prior to considering
48 adoption of the ~~analysis with any modifications or revisions.~~ system development fee. Notice of
49 the public hearing shall be published not less than 10 days nor more than 25 days before the date
50 fixed for the public hearing in a newspaper having general circulation in the area and may be
51 published on the Web site of the local government."

1 **SECTION 6.** This act becomes effective July 1, 2019, and applies to fees imposed
2 on or after that date.