



**Date:** October 4, 2011

**To:** Thomas J. Bonfield, City Manager

**Through:** Theodore L. Voorhees, Deputy City Manager

**From:** Marvin G. Williams, Director of Public Works  
Edward R. Venable, Manager of Engineering and Stormwater

**Subject:** Revision to City Code Section 70-17 - Payment of Frontage Charges

### **Executive Summary**

Section 70-17(b) of the City of Durham's Code of Ordinances states that as a condition precedent to connecting a property to a water or sewer main, a "frontage charge shall apply to all frontage of the property on abutting streets which has not been previously assessed or paid for by the property owner regardless of whether or not such water main or sewer main, or both, have yet been installed abutting all frontage of the property." Various objections have been voiced over the years regarding this policy, particularly in instances where a charge is made for frontage where it appears a main will never be installed. In response to such objections, the City Manager's Office has directed the Public Works Department to bring this issue before City Council for consideration of a code revision.

### **Recommendation**

The Public Works Department recommends that City Council adopt an ordinance amending Section 70-17(b) of the Durham City Code to allow the City Manager to grant relief from water and sewer frontage charges, except for the first 200 feet, for sections of street frontage where such improvements will never be installed.

### **Background**

On March 2, 1987, City Council adopted Ordinance 7151, which revised what is now City Code Section 70-17 – Payment of Frontage Charges Prerequisite to Connection with Water and Sewer Mains. That ordinance dictates that a "frontage charge shall apply to all frontage of the property on abutting streets which has not been previously assessed or paid for by the property owner regardless of whether or not such water main or sewer main, or both, have yet been installed abutting all frontage of the property." One of the purposes of collecting all frontage at the time of connection was to avoid instances where the City levied an assessment for a water or sewer main extension against a property that was already connected to City water or sewer via another main and seemed to reap no benefit from the new main for which it was being assessed. While the ordinance alleviated that pitfall, it created what has been called an inequity by some, in that there are instances where a frontage fee is charged along a street section where water and sewer will not be extended. By way of example, this could occur at the end of the City's service boundary, or due to topography in the case of sewer.

As it stands now, in the process of assessing properties for improvements, or in charging frontage fees, the City will generally charge for the full frontage of the lot in question (corner lots being an exception), regardless of whether a water or sewer main is extended across that full frontage. The basis for this is that the customers are in effect paying their frontage

as a part of the service (be it water or sewer) they are receiving as opposed to the actual length of the extension.

As an example, in the process of extending lines the City may find that it is not feasible to extend a sewer main across the full frontage of a property (Lot A) due to topography, etc., yet that lot is receiving the same benefit that the lot next door (Lot B) does. Because the line runs across the full frontage of Lot B they pay the entire frontage that abuts their lot. Although the line may not run across the full frontage of Lot A, the City still charges the full frontage fee as Lot A is receiving the same service benefit as Lot B.

The basis for maintaining the 200 foot figure in this proposed revision is that it will allow the City to collect something for the frontage (this covers most standard lots) as a part of “service received,” and therefore be in line with current practice for assessments. Nevertheless, the Ordinance revision provided for a method to cap what can be charged when a sewer line or water line will never actually be extended,

In addition, another relief categories involves irregular lots (generally referred as “pie-shaped”) where the City allows a reduction in assessment charges based on a 50 foot lot line set-back calculation. In this case a reduced frontage charge is applied, but in no case less than 200 feet.

The recommendation is that some minimum charge needs to be maintained to alleviate the argument that “the line doesn’t go across the full frontage of a property, and will never be built, therefore the full frontage fee should not be applied.” The reasoning in choosing a 200 foot minimum (as opposed to some other distance, or none at all) in the proposed code revision is to be consistent with our current policies in other areas relating to assessments and extensions.

### **Issues and Analysis**

In order to keep the relief granted by this Code revision consistent with relief granted by other existing policies, it is recommended that the City continue to collect the first 200 feet of road frontage charges, regardless of whether the water or sewer mains will ever be extended. This provides for some level of equity in that all lots are charged at least a minimum frontage fee since service is being provided.

### **Alternatives**

The alternative would be to leave the ordinance as is and continue to collect frontage fees for all property frontage with no relief except for standard corner lot relief.

### **Financial Impacts**

The financial impacts of this Code revision would be the loss of future frontage revenues that would normally be realized under the current practice for collecting those water and sewer frontage fees. This loss is viewed as minimal and quantifying the amount is not practical.

### **SDBE Summary**

N/A