

CITY ORDINANCE NO. CO-119-2023

AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL AMENDING AND RE-ENACTING CHAPTER 94, ARTICLE II, SUBSECTION 94-57(B) OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES TO PROVIDE THE DIRECTOR OF UTILITIES OR THE DIRECTOR OF THE COMMUNICATIONS SYSTEM DEPARTMENT WITH THE AUTHORITY TO RESERVE A PORTION OF THE CAPACITY OF FUTURE FACILITIES FOR A PROSPECTIVE USER UPON PAYMENT OF A DEPOSIT OF THE CAPITAL RECOVERY FEE BY THE PROSPECTIVE USER

BE IT ORDAINED by the Lafayette City Council, that:

WHEREAS, by Ordinance No. O-131-2015, the Lafayette City-Parish Council enacted Chapter 94, Article II, Section 94-57 of the Lafayette City-Parish Consolidated Government Code of Ordinances to authorize the Director of Utilities or the Director of Communications System Department, as appropriate (the “Director”), to enter into betterment agreements for the provision of, and connection to, water, sewer, electric, and telecommunications facilities owned or operated by Lafayette City-Parish Consolidated Government (“LCG”) and to establish capital recovery fees; and

WHEREAS, Subsection 94-57(b) of the Lafayette City-Parish Consolidated Government Code of Ordinances authorizes the Director to impose a capital recovery fee for all prospective users of water, sewer, electric, and telecommunications facilities to pay their proportionate share of the demand they will place upon such facilities; and

WHEREAS, LCG desires to promote the orderly development of the City and Parish of Lafayette and to safeguard the health, safety, and welfare of its citizens; and

WHEREAS, Developers need to ensure that their developments will be connected to water, sewer, electric, and telecommunications facilities and that such facilities will have capacity to meet the anticipated demand of their future developments; and

WHEREAS, LCG desires to more accurately predict and prepare for future demand on water, sewer, electric, and telecommunications facilities and to recoup the initial investments in facilities to provide for excess capacity; and

WHEREAS, considering the foregoing, LCG desires to provide prospective users of water, sewer, electric and telecommunications facilities with the ability to reserve a portion of the capacity of future facilities through payment of a deposit of the capital recovery fee and to authorize the Director to determine the amount of the deposit, accept the deposit, and reserve the requested portion of the capacity of future facilities.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council, that:

SECTION 1: All of the aforescribed “Whereas” clauses are adopted as part of this ordinance.

SECTION 2: Chapter 94, Article II, Subsection 94-57(b) of the Lafayette City-Parish Consolidated Government Code of Ordinances is hereby amended and-reenacted in the following particulars, with words **underscored and boldfaced** being additions:

ARTICLE II SERVICE APPLICATIONS, CONNECTIONS AND RELATED PROVISIONS

Sec. 94-57. Betterment agreements and connection fees for water, sewer, electric and telecommunications facilities.

(b) The director is further authorized to impose a capital recovery fee for all future prospective users of water, sewer, electric and telecommunications facilities, whether constructed entirely by public funds or constructed pursuant to betterment agreements authorized by this section. The amount of the capital recovery fee shall be determined according to prudent utility practice then prevailing at the time of the requested use of the facilities, but such fee shall generally be determined according to the proportionate share of the demand to be placed upon such facilities by the prospective user of such facilities, as determined in the sole discretion of the **director** department of utilities.

(1) The director is further authorized to reserve for a prospective user a portion of the capacity of future facilities upon payment of a deposit by the prospective user.

(a) The amount of the deposit shall be determined according to prudent utility practice then prevailing at the time of the deposit, the anticipated cost of the facilities, the proportionate share of the demand sought to be placed upon the facilities by the prospective user, the anticipated construction timeline of the facilities and the prospective user’s facilities, and competing actual or anticipated demand among prospective users for use of the facilities, and any other relevant factors as determined in the sole discretion of the director. The director may reserve a different portion of the capacity of future facilities than requested by a prospective user, upon payment of the deposit therefor as determined by the director. Upon significant change in the anticipated cost of a facility or the actual or anticipated demand for its use, the director may require supplemental deposits to continue maintaining reservations for that facility, determined in the same manner as the original deposit.

(b) Reservations shall be prioritized on a first-come, first-served basis according to dates of payment of the deposits. Partial payment of a deposit is not permitted. Deposits may be made by cash deposit or, in the discretion of the director, by providing a bond, letter of credit, or other means acceptable to the director. Payment of a deposit does not guarantee or obligate construction of the facilities. The deposit shall be non-refundable, except that if the director decides not to construct the facilities for any reason, in his sole discretion, the deposit shall be returned to the prospective user.

(c) Upon completion of construction and determination of the total capital recovery fee by the director as provided above, all deposits paid by the prospective user shall be credited to the capital recovery fee for the reserved capacity; and upon payment of the remainder of the capital recovery fee, the prospective user shall be entitled to the reserved capacity. The director is authorized to impose deadlines after completion of construction of the facilities for payment of the entire capital recovery fee for the reserved capacity, and to allow reasonable extensions of such deadlines, with or without a supplemental deposit to continue maintaining the reservation..

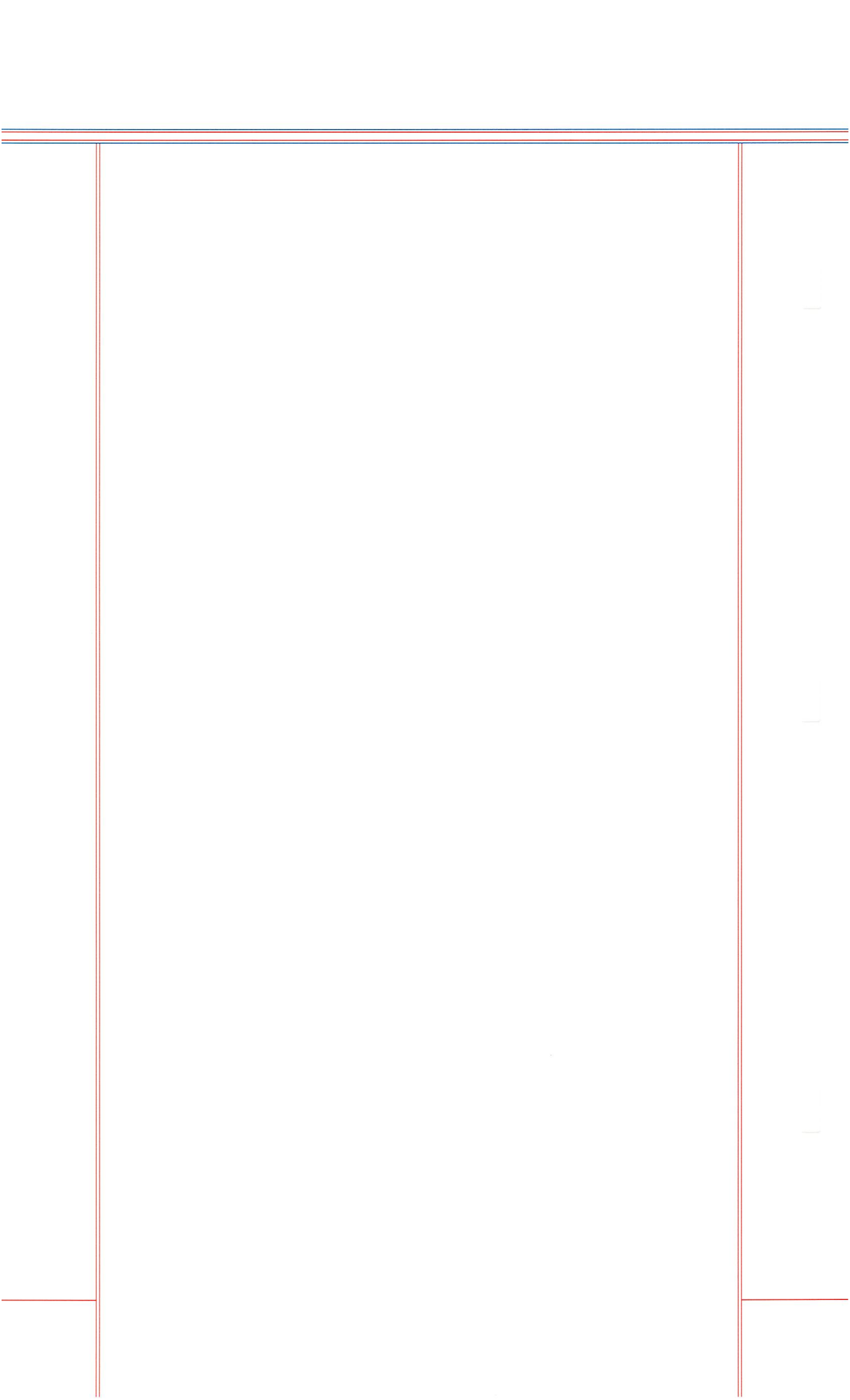
(2) The director is further authorized to reserve for a prospective user a portion of the capacity of existing facilities, for a fixed period of time, upon payment of a deposit by the prospective user. Post-construction reservations shall be determined in the same manner and subject to the same terms, conditions, and requirements as pre-construction reservations.

SECTION 3: All other provisions and regulations not specifically amended herein shall remain and be in full force and effect.

SECTION 4: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall become effective upon signature of the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon an override of a veto, whichever occurs first.

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RECEIVED

JUL 06 2023

Lafayette Consolidated Government
Chief Administrative Officer

Internal Memorandum

Lafayette Utilities System
Engineering Administration Division (7081)

TO: Cydra Wingerter DATE: July 6, 2023

THRU: Jeffrey Stewart *SJS 07/06/2023*
Ryan Meche *R.M. 7/7/23*

FROM: Karen Hoyt

SUBJECT: City Council Ordinance to authorize reservation of capacity for future utilities and telecommunications facilities

Please find attached a City Council Ordinance amending Chapter 94, Article II, Subsection 94-57(b) of the Lafayette City-Parish Consolidated Government Code of Ordinances prepared by the Legal Department (Lawrence Marino).

The existing ordinance authorizes the Director of Utilities or the Director of Communications System Department, as appropriate (the "Director"), with authority to impose a capital recovery fee for all prospective users of water, sewer, electric, and telecommunications facilities to pay their proportionate share of the demand they will place upon such facilities.

The proposed ordinance adds subsection 94-57(b)(i), which provides the Director with authority to reserve a portion of the capacity of future facilities for a prospective user upon payment or provision of a deposit of a portion of the anticipated capital recovery fee. The proposed ordinance authorizes the Director to determine the amount of the deposit in accordance with prudent utility practices, competing demand for the facilities, and other relevant factors. The proposed ordinance is intended to promote development in the City and Parish of Lafayette by providing developers a process to enable them to ensure their access to utility and telecommunications facilities for their future developments. The proposed ordinance also provides for return of the deposit if construction of the facilities is canceled.

Attached are:

1. An Ordinance of the Lafayette City Council Amending and Re-Enacting Chapter 94, Article II, Subsection 94-57(b) of the Lafayette City-Parish Consolidated Government Code of Ordinances to Provide the Director of Utilities or the Director of the Communications System Department with the Authority to Reserve a Portion of the Capacity of Future Facilities for a Prospective User Upon Payment of a Deposit of the Capital Recovery Fee by the Prospective User; and
2. Agenda Submittal Form.

Please submit this ordinance for introduction at the City Council meeting on July 25, 2023 with final adoption on August 8, 2023. Should you have any questions, please contact our office.

Karen Hoyt
Engineering & Power Supply Manager

/lm

Enclosures

LAFAYETTE CITY COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: An ordinance of the Lafayette City Council amending and re-enacting Chapter 94, Article II, Subsection 94-57(b) of the Lafayette City-Parish Consolidated Government Code of Ordinances, to provide the Director of Utilities or the Director of the Communications System Department with the authority to reserve a portion of the capacity of future facilities and betterments for a prospective user upon payment of a deposit of the capital recovery fee by the prospective user.

2) ACTION REQUESTED: Adoption of ordinance

3) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: July 25, 2023

B) FINAL ADOPTION: August 8, 2023

4) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Internal Memorandum (1 page)

B) Submittal (1 page)


C) Ordinance (2 pages)

5) FISCAL IMPACT:

 Fiscal Impact (explain)

 X No Fiscal Impact

RECOMMENDED BY:

 07/06/2023
JEFFREY B. STEWART, P.E.
DIRECTOR OF UTILITIES

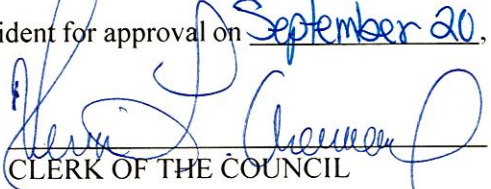
APPROVED FOR AGENDA BY:



CYDRA WINGERTER
CHIEF ADMINISTRATIVE OFFICER

DISPOSITION OF ORDINANCE NO. CO-119-2023

1. This ordinance was introduced: September 5, 2023
YEAS: Lewis, Naquin, Hebert, Cook, Lazard
NAYS: None
ABSENT: None
ABSTAIN: None
Final disposition by Council: September 19, 2023
YEAS: Lewis, Naquin, Hebert, Cook, Lazard
NAYS: None
ABSENT: None
ABSTAIN: None
DEFER: 07/25-Intro deferred to 08/22; 08/22-Intro deferred to 09/05
AMEND: 09/05 -Provide the necessary flexibility to accommodate the capital recovery fee and reservation process.

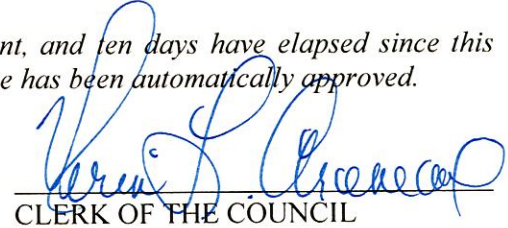
2. Notice of Public Hearing: This ordinance was published by Title and Notice of Public Hearing was published in the Advertiser on September 8, 2023.

3. This ordinance was presented to the Mayor-President for approval on September 20, 2023, at 2:15 o'clock p.m.

CLERK OF THE COUNCIL

4. Disposition by Mayor-President:
I hereby:
A. Approve this ordinance, the 21st day of SEPTEMBER, 2023, at 10:45 o'clock a.m.
B. Veto this ordinance, the _____ day of _____, 2023, at _____ o'clock _____.m., veto message is attached.
C. Line item veto certain items this _____ day of _____, 2023, at _____ o'clock _____.m., veto message is attached.

MAYOR-PRESIDENT

5. Returned to Council Office ~~with~~ without veto message on September 28, 2023, at 3:19 o'clock p.m.

6. Reconsideration by Council (if vetoed):
On _____, 2023, the Council did/refused to adopt this ordinance after the Mayor-President's veto.

7. Returned to the Council Office without signature of Mayor-President (*unsigned*) on _____, 2023, at _____ o'clock _____.m.
If not signed or vetoed by the Mayor-President, and ten days have elapsed since this ordinance was presented to him for action, same has been automatically approved.

CLERK OF THE COUNCIL

8. Full publication of this ordinance was made in the Advertiser on September 22, 2023.

