

## **Combined Text Version of Service Fee Ordinance 708**

(As Amended by Ordinance No. 754, 789, 804, 809, 826, 886, Res. 338)

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### ORDINANCE ESTABLISHING SERVICE FEES UPON ANNEXATION TO THE FOX RIVER WATER RECLAMATION DISTRICT

WHEREAS, this Ordinance is promulgated pursuant to the authority of the Sanitary District Act of 1917 (70 ILCS 2405/0.1 et seq.), and;

WHEREAS, the purpose of this Ordinance is to collect a fair and reasonable charge for connection to the Sewerage Works of the Fox River Water Reclamation District (District) for the construction, expansion and extension of the works of the system, and;

WHEREAS, the District Board of Trustees in conjunction with its staff and attorney, have determined a system for apportioning the cost of such construction, expansion and extension for new and additional territories being annexed to the District:

(By Ord. No. 754)

*WHEREAS, the Fox River Water Reclamation District (“District”) has determined that it is in the best interest of the District to amend Ordinance No. 708 passed June 16, 2003, by which the District regulates service fees for annexation of new territory to the District; and*

*WHEREAS, recent changes have occurred in the laws, policy, and practice in permitting sewage treatment plant expansions and the issuance of NPDES discharge permits for sewage plants and plant expansions and the District has not increased service fees since October 1, 1990; and*

*WHEREAS, the District is projected to experience record growth in the years ahead which will require the expansion of the District’s sewage treatment plant known as the West Plant, and there are changes in discharge permit requirements, and construction of sludge handling facilities may be required, and there are other uncertainties in the process of obtaining such permits; and*

*WHEREAS, the District’s Board of Trustees desires to establish reasonable service fees that fully compensate the District for the expense of such permits, expansion and related construction costs;*

(By Ord. No. 789)

*WHEREAS, the Fox River Water Reclamation District (“District”) has determined that it is in the best interest of the District to amend Ordinance No. 708 passed June 16, 2003, by which the District regulates service fees for annexation of new territory to the District; and*

(By Resolution No. 338)

*WHEREAS, the Fox River Water Reclamation District ("District") has determined that it is in the best interest of the District to establish a policy under Ordinance No. 708, as amended from time to time, to clarify the Service Fees that are due and payable to the District for certain community building in residential developments:*

(By Ord. No. 804)

*WHEREAS, certain parcels of real property have or will be annexed to the Fox River Water Reclamation District ("District") which are developed as a single parcel of property for residential or commercial purposes that are comprised of property annexed to the District prior to October 1, 1990 and therefore sewer connections are regulated pursuant to Ordinance No. 229 dated April 25, 1966, as amended from time to time, ("Connection Fee Property") along with property annexed on or after October 1, 1990 and therefore sewer service is regulated pursuant to Ordinance No. 708 dated June 16, 2003 as amended from time to time ("Service Fee Property"); and*

*WHEREAS, the Fox River Water Reclamation District ("District") has determined that it is in the best interest of the District to amend Ordinance No. 708 passed June 16, 2003, by which the District regulates service fees for annexation of new territory to the District to address the development of Connection Fee Property and Service Fee Property as a single parcel; and,*

(By Ord. No. 809) *Enacted changes to raise service fees April 27, 2009 –REPEALED BY 826*

(By Ord. No. 826)

*WHEREAS, the Fox River Water Reclamation District ("District") has determined that it is in the best interest of the District to amend Ordinance No. 754 passed March 28, 2005 and Ordinance No. 708 passed June 16, 2003, by which the District regulates service fees for annexation of new territory to the District; and*

*WHEREAS, changes in the local and national economic conditions have occurred since the adoption of Ordinance 754 that have resulted in a sharp reduction in growth and development in the District that is anticipated to continue for the near future, and a reduction in Service Fees for an indefinite period of time will promote an increase in development and economic activity in the District;*

(By Ord. No. 886)

*WHEREAS, the Fox River Water Reclamation District ("District") has determined that it is in the best interest of the District to amend Ordinance No. 826 and Ordinance 754 and Ordinance 708 passed June 16, 2003, by which the District regulates service fees for annexation of new territory to the District; and*

*WHEREAS, the Fox River Water Reclamation District ("District") has determined that it is in the best interest of the District to amend Ordinance No. 622 and Ordinance 513 and Ordinance No. 607 by which the District regulates connection fees for buildings that connect to the District sewer system, particularly including fees for public uses; and*

*WHEREAS, changes in the state and national regulatory conditions have occurred since the adoption of Ordinance 708 and Ordinance 622 and related ordinances that have resulted in changes in the capital improvement needs of the District; and*

*WHEREAS, changes in the type and character of Public Uses as defined in the subject ordinances have occurred since their adoption that have resulted in a change on the impact of the capital improvement needs of the District; and*

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE FOX RIVER WATER RECLAMATION DISTRICT, KANE AND COOK COUNTIES, ILLINOIS;

*(By Ord. No. 826) From and after the effective date of this Ordinance, or until such time as rescinded by amendment of this ordinance, the Service Fees upon annexation shall be based upon the rate of \$720.00 per P.E. rather than \$800.00 per P.E. and Ordinance 754 and Ordinance 708 shall be modified as specifically set forth in Ordinance 826 for sections below.*

SECTION 1. Definitions.

*(By Ordinance 804) Unless otherwise set forth herein, terms contained in the Ordinance which are capitalized shall have the definitions as set forth in Ordinance No. 708, as amended from time to time. A Combined Parcel shall be defined as a Development Parcel or a residential lot that contains Connection Fee Property and Service Fee Property. A Connection Fee shall be defined as the connections fees due under Ordinance No. 229 Article 7 and Article 8 as amended by Ordinance No. 792, and as amended from time to time, and as amended as required to conform to the terms of the Ordinance.*

- 1.1 Applicant. An Applicant is the person or entity that is applying for an IEPA Permit Application or District issued connection permit for a Development Parcel and may include the Developer or Owner.
- 1.2 Capacity. Capacity means the flow rate of sewage treatment capacity at a District sewage treatment facility based upon the average daily flow volume, unless otherwise stated, of sewage in gallons per day or Population Equivalent (PE).
- 1.3 Connection Permit. A Connection Permit is a permit issued by the District, prior to the issuance of a building permit by the applicable local authority, which authorizes the connection of a structure to sewers appurtenant to the Sewerage Works of the District.
- 1.4 Development Parcels. A Development Parcel is a parcel of land for which sewage treatment by connection to the District Sewerage Works and annexation is being requested from the District pursuant to this Ordinance. The size and configuration of the parcel shall be determined by the General Manager of the District and will generally include all of the contiguous property owned or controlled by the Owner or Developer of the Development Parcel, unless good cause is shown to the General Manager.
- 1.5 Developer. A Developer is the party or parties which propose to improve the Development Parcel or annex the Development Parcel to obtain sewage treatment Capacity and may hold an option or contract purchasers interest in the land and may include the Owner of the land.
- 1.6 District. The District is the Fox River Water Reclamation District, of Kane and Cook Counties, Illinois, a municipal corporation organized and existing under the Sanitary District Act of 1917, (70 ILCS 2405/0.1 et seq.) and also referred to as the FRWRD.

- 1.7 Excess Service Fee. An Excess Service Fee is a fee paid to the District pursuant to this ordinance for Capacity in a Commercial/Industrial Development Parcel which exceeds 12.5 PE per acre.
- 1.8 IEPA. The IEPA refers to the Illinois Environmental Protection Agency.
- 1.9 General Manager. The General Manager is the acting chief executive officer of the District as appointed by the Board of Trustees of the District.
- 1.10 Owner. The Owner shall be the persons or entities of record holding title to the Development Parcel.
- 1.11 Population Equivalents or PE. A Population Equivalent is the flow rate of sewage equal to 100 gallons per day.
- 1.12 Public Use. A Public Use is a religious, educational, charitable, governmental or other similar land use, as determined by the Board of Local Improvements after considering the facts presented pursuant to the same terms as applied to Public Buildings under Ordinance 622, as amended from time to time.
- 1.13 Residential Unit. A Residential Unit is a dwelling designed for occupancy by a single family unit or individual, including a detached single family residence, an apartment within an apartment building, an efficiency apartment, a townhouse, each side of a duplex, a hotel or motel room, a sleeping room, and the like.
- 1.14 Service Fees. A Service Fee is the fee paid to the District pursuant to this Ordinance, which is required to annex a Development Parcel to the District for the purpose of connection to the Sewerage Works and to reserve Capacity and includes Residential Service Fees for Residential Development Parcels, and General Service Fees, Excess Service Fees, and Minimum Service Fees for Commercial/Industrial Development Parcels.
- 1.15 Sewerage Works. The Sewerage Works means all of the sanitary sewer treatment, conveyance and other systems owned, operated or controlled by the District.

SECTION 2. Property Classification. All Development Parcels seeking to annex to the District shall be classified, solely for the purposes of this Ordinance, by the General Manager, as either Residential, Commercial/Industrial, or Public Use, based upon the current and proposed use of the property and other facts known to the General Manager. A Development Parcel containing more than one type of use shall be considered a Mixed Use Development Parcel and governed by the provisions relating to Mixed Use Developments herein.

### SECTION 3. Commercial/Industrial Service Fees.

- (A.) Service Fees for Development Parcels classified as Commercial/Industrial Development Parcels shall be determined based upon this section. The General Service Fee for Commercial/Industrial Development Parcels is **\$9,000** (*Ord. 826*) per acre for each gross acre in size of the Development Parcel and is applicable to all property of this classification, and shall reserve Capacity at a flow rate not to exceed 12.5 PE per gross acre (regardless of current, proposed, or design Capacity of the proposed improvements of a lesser flow rate.) The General Service Fee may be paid to the District in three installments. Prior to annexation to the District, the Owner or Developer of the Development Parcel shall pay to

the District, as a first installment, a Minimum Service Fee equal to \$1,500.00 per gross acre times the number of gross acres in the Development Parcel for Commercial/Industrial property. The Minimum Service Fee paid at the time of annexation will be applied toward the General Service Fee. Payment of the Minimum Service Fee due at annexation of \$1500.00 per gross acre does not guarantee or reserve wastewater treatment plant Capacity.

- (B.) If the Capacity requirement of the Development Parcel exceeds 12.5 P.E. per gross acre, then, the Applicant, Owner or Developer as the case may be, will pay the District, an Excess Service Fee, at the rate of **\$720** (*Ord. 826*) per P.E., prior to the time the District is requested to sign the first IEPA permit application or Connection Permit application for the Development Parcel, which discloses such excess capacity requirements. The District reserves the right to refuse to provide excess treatment capacity, unless the District has issued its prior written approval or accepted payment for such capacity.

**(From Ord. 754)** If the Excess Service Fee is not paid at the time of the IEPA Permit Date, which discloses such excess capacity requirements, then at the election of the Developer, such fees may be deferred until payment and issuance of a Connection Permit by the District at the rate in effect on the date of payment. Excess Service Fees cannot be deferred beyond the time of execution by the District of a Connection Permit. Annexation of the Development Parcel and payment of General Service Fees does not guaranty the availability of capacity in excess of 12.5 P.E. per acre.

- (C.) **(Ord 754 removed index)** Prior to the time of signing the first I.E.P.A. permit application for the Development Parcel by the District, a second installment of the General Service Fee, in the amount of \$3,000.00 per gross acre, will be paid to the District, unless, at the election of the Developer, payment of such installment, and payment of the Excess Service Fee, if any, are deferred and such fees will then be paid at the time of execution of a Connection Permit by the District at the rate in effect on the date of payment.
- (D.) **(Ord 754 removed index)** The third installment of the General Service Fee of **\$4,500** (*Ord. 826*) per gross acre (for a total of **\$9,000/acre**) (*Ord. 826*) is due on or before execution by the District of a Connection Permit. The Applicant may apportion payment of the second installment of the General Service Fee and any required Excess Service Fee, plus the third installment of the General Service Fee, over identified areas or development phases of the Development Parcel of reasonable size and configuration of not less than one (1) lot or one (1) building, the size and configuration of which must be approved by the General Manager, pursuant to the usual and customary practices established by the District.
- (E.) **(Ord 754 replaced 708 text)** In the event that the second installment of the General Service Fee due at the time of the first IEPA application and any Excess Service Fee are deferred by the Applicant and are not sooner paid, such fees, shall be due and payable on the fifth (5<sup>th</sup>) anniversary of the date of issuance of the first IEPA application issued for the Applicants Development Parcel, and, from and after such fifth anniversary, the deferred fees shall be increased by a factor of five percent per year (5%) from such fifth anniversary until the date of payment and subsequent applications and permits for the Development Parcel may be withheld by the District until payment of such deferred fees.

- (F.) **(from Ordinance 804)** *In the event that a Developer proposes to improve a Development Parcel for Commercial/Industrial Uses and the Development Parcel is a Combined Parcel, then the Connection Fees and/or Service Fees shall be determined according to this subsection of Ordinance 708. When a Combined Parcel is developed with a single building*

*or in such other manner as shall make it impractical to calculate the fees on a separate basis then the Development Parcel shall have its fees determined based upon which ever type of property, Connection Fee Property or Service Fee Property, comprises the larger portion of the Development Parcel, pursuant to a survey thereof as determined by the General Manager of the District. If the larger portion of the Combined Parcel is Connection Fee Property, then a Connection Fee shall be issued for the development on the entire Development Parcel as if the entire property was Connection Fee Property. Notwithstanding anything herein to the contrary, the Minimum Service Fee due at the time of annexation of the Service Fee Property within a Combined Parcel shall be the Minimum Service Fee set forth in Section 3(A) of Ordinance 708, as amended from time to time. If the larger portion of the Combined Parcel is Service Fee Property, then Service Fees shall be due for the entire Development Parcel as if the entire property was Service Fee Property. Nothing in this subsection (F) shall prohibit a Developer of a Development Parcel from seeking a variation from the applicability of the subsection (F) pursuant to the procedure set forth in Section 12 of Ordinance 708.*

**SECTION 4. Residential Service Fees. (Ord 754 removed index)** Service Fees for Development Parcels classified as Residential Development Parcels shall be determined based upon this section. Residential Service Fees are based upon **\$2,520 (Ord. 826)** per Residential Unit per Development Parcel. Prior to annexation to the District, the Owner or Developer of a Development Parcel shall pay to the District **\$2,520 (Ord. 826)** times the number of gross acres in the Development Parcel. If, however, the projected number of Residential Units on the Development Parcel is less than the number of gross acres, as reasonably determined by the General Manager, then the amount due shall be **\$2,520 (Ord. 826)** per Residential Unit. At the election of the Owner or Developer, residential Development Parcels in excess of 40 acres may annex upon payment of 40 times the amount of the Residential Service Fee and defer payment of the balance of the Residential Service Fee until the time of the District's execution of the IEPA permit application. The Service Fee payment shall not guarantee and/or reserve treatment plant capacity in excess of one Residential Unit per fee paid. Prior to the District executing an application for an IEPA permit, a Residential Service Fee must be paid for each Residential Unit covered by the permit application, provided that, the fees paid at the time of annexation shall be credited first against the Residential Units set forth in the application and any Service Fee that was deferred at the time of annexation, shall be paid thereafter until all deferred Service Fees are paid. The Owner or Developer may phase the property development and pay for the number of Residential Units in each phase as set forth in the IEPA permit application. Upon payment in full of the Service Fee due at the time of annexation the Service Fee for all future Residential Units shall be paid at the then current Residential Service Fee. Wastewater treatment plant capacity for all Residential property shall be reserved at the rate of 3.5 PE per Residential Unit, based upon **\$720 (Ord. 826)** per PE, regardless of the size, configuration, or proposed use of the Residential Unit. In the event that any part of the Residential Service Fee due at the time of annexation are deferred by the Applicant and are not sooner paid, such fees, shall be due and payable on the fifth (5<sup>th</sup>) anniversary of the date of annexation of the Applicants Development Parcel, and, from and after such fifth anniversary, the deferred fees, shall be increased by a factor of five percent per year (5%) from such anniversary until the date of payment and subsequent applications and permits for the Development Parcel may be withheld by the District until payment of such deferred fees.

***(from Ordinance 886)***

***PART ONE: From the period of January 1, 2018 to December 31, 2018, or until such time as an amendment of this ordinance, Ordinance 708 Section 5. Public Uses. shall provide for Service Fee waivers in the amount of not more than 66% of the Service Fee, as applicable, as set forth below:***

*SECTION 5. Public Uses.*

(A) *Service Fees for Public Uses shall be established based upon this Section. Public Uses shall pay the same Service Fee as a Commercial/Industrial or Residential property and Mixed-Use properties, without limitation, as provided for in this ordinance, as amended from time to time. The General Manager shall determine the residential and commercial/industrial character of the development and determine the Service Fees accordingly, however, if upon written petition of the owner, agent of the owner or other interested party, or upon request by the staff of the District, or upon the request of one of the Members of the Board of Local Improvements of the District, requesting a reduction of the Service Fee, and after due consideration, the Board of Local Improvements of the District determines that such application for annexation, or connection, of or concerning a property classified by the General Manager as a Public Use as defined in this ordinance, as amended from time to time, is in the best interest of the residents of the District, or will further the interests and purposes of the District, and will not adversely impact the District, its residents, its capital or operating budgets or plans, and after considering the following criteria, and such other criteria as the Board of Local Improvements may determine, that is to say:*

- (1) the religious use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;*
  - (2) the educational use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;*
  - (3) the charitable use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;*
  - (4) the existence of a conservation easement recorded against the property to be annexed that restricts development and imposes little or no demand for sewer use or treatment capacity, and the existence of an agreement with the landowner that requires fee payment in the event of a change in use;*
  - (5) the governmental use, purpose and objective of the applicant, in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;*
  - (6) the existence of reciprocal agreements or relationships with respect to the waiver or reduction of fees, assessments, or other charges by a governmental applicant;*
  - (7) such other criteria as the Board of Local Improvements may determine;*
- then, the Board of Local Improvements, by motion, may reduce or eliminate the connection fees, for said Public Use by an amount up to Sixty Six percent (66%) of the then current Service Fee, except as provided herein below.*

(B) *The Service Fees for property that is subject to a conservation easement, governmental uses and for other situations wherein a government applicant has a reciprocal agreement or relationship with respect to the waiver of fees, as set forth in Section 5 (A) (4) and (5) then the fee waiver may be up to 100% of the Service Fee.*

(C) *The ordinance of annexation of a Development Parcel that is a Public Use may provide that the applicable Service Fees shall become due and payable at such time as the use ceases to be a Public Use or a change in use or transfer of ownership occurs.*

**PART TWO:** *From the period of January 1, 2019 to December 31, 2019, or until such time as an amendment of this ordinance, Ordinance 708 Section 5. Public Uses. shall provide for Service Fee waivers in the amount of not more than 33% of the Service Fee, as applicable, as set forth below:*

*SECTION 5. Public Uses.*

(A) *Service Fees for Public Uses shall be established based upon this Section. Public Uses shall pay the same Service Fee as a Commercial/Industrial or Residential property and Mixed-Use properties,*

without limitation, as provided for in this ordinance, as amended from time to time. The General Manager shall determine the residential and commercial/industrial character of the development and determine the Service Fees accordingly, however, if upon written petition of the owner, agent of the owner or other interested party, or upon request by the staff of the District, or upon the request of one of the Members of the Board of Local Improvements of the District, requesting a reduction of the Service Fee, and after due consideration, the Board of Local Improvements of the District determines that such application for annexation, or connection, of or concerning a property classified by the General Manager as a Public Use as defined in this ordinance, as amended from time to time, is in the best interest of the residents of the District, or will further the interests and purposes of the District, and will not adversely impact the District, its residents, its capital or operating budgets or plans, and after considering the following criteria, and such other criteria as the Board of Local Improvements may determine, that is to say:

- (1) the religious use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;
  - (2) the educational use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;
  - (3) the charitable use, purpose and objective of the applicant in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;
  - (4) the existence of a conservation easement recorded against the property to be annexed that restricts development and imposes little or no demand for sewer use or treatment capacity, and the existence of an agreement with the landowner that requires fee payment in the event of a change in use;
  - (S) the governmental use, purpose and objective of the applicant, in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;
  - (6) the existence of reciprocal agreements or relationships with respect to the waiver or reduction of fees, assessments, or other charges by a governmental applicant;
  - (7) such other criteria as the Board of Local Improvements may determine;
- then, the Board of Local Improvements, by motion, may reduce or eliminate the connection fees, for said Public Use by an amount up to Thirty Three percent (33%) of the then current Service Fee, except as provided herein below.

(B) The Service Fees for property that is subject to a conservation easement, governmental uses and for other situations wherein a government applicant has a reciprocal agreement or

relationship with respect to the waiver of fees, as set forth in Section 5 (A) (4) and (S) then the fee waiver may be up to 100% of the Service Fee.

(C) The ordinance of annexation of a Development Parcel that is a Public Use may provide that the applicable Service Fees shall become due and payable at such time as the use ceases to be a Public Use or a change in use or transfer of ownership occurs.

**PART THREE: From and after January 1, 2020, or until such time as an amendment of this ordinance, Ordinance 708 Section 5. Public Uses. shall only provide for Service Fee waivers, in certain cases, as set forth below:**

**SECTION 5. Public Uses.**

(A) Service Fees for Public Uses shall be established based upon this Section. Public Uses shall pay the same Service Fee as a Commercial/Industrial or Residential property and Mixed-Use properties, without limitation, as provided for in this ordinance, as amended from time to time. The General Manager shall determine the residential and commercial/industrial character of the development and determine the Service Fees accordingly, however, if upon written petition of the owner, agent of the



owner or other interested party, or upon request by the staff of the District, or upon the request of one of the Members of the Board of Local Improvements of the District, requesting a reduction of the Service Fee, and after due consideration, the Board of Local Improvements of the District determines that such application for annexation, or connection, of or concerning a property classified by the General Manager as a Public Use as defined in this ordinance, as amended from time to time, is in the best interest of the residents of the District, or will further the interests and purposes of the District, and will not adversely impact the District, its residents, its capital or operating budgets or plans, and after considering the following criteria, and such other criteria as the Board of Local Improvements may determine, that is to say:

- (1) the existence of a conservation easement recorded against the property to be annexed that restricts development and imposes little or no demand for sewer use or treatment capacity, and the existence of a recordable covenant or declaration with the landowner that requires fee payment in the event of a change in use;
- (2) the governmental use, purpose and objective of the applicant, in view of the sewer use, treatment capacity and demand, and the relative commercial value of such use and demand;
- (3) the existence of reciprocal agreements or relationships with respect to the waiver or reduction of fees, assessments, or other charges by a governmental applicant.

(B) The Service Fees for property that is subject to a conservation easement, governmental uses and for other situations wherein a government applicant has a reciprocal agreement or relationship with respect to the waiver of fees, as set forth in Section S (A) (1) (2) or (3) then the fee waiver may be up to 100% of the Service Fee.

(C) The ordinance of annexation of a Development Parcel that is a Public Use may provide that the applicable Service Fees shall become due and payable at such time as the use ceases to be a Public Use or a change in use or transfer of ownership occurs.

SECTION 6. Mixed-Use Fees. Service Fees for Development Parcels containing a combination of Residential Uses, Commercial/Industrial Uses or Public Uses shall be established based upon this Section. Upon application for annexation to the District the Owner or Developer of the Development Parcel with Mixed Uses shall request the General Manager to apportion the uses and apply the respective fees as set forth in this Ordinance, as the General Manager shall determine, based upon the proportionate uses, and advise the Owner or Developer of the applicable fee in writing prior to payment.

SECTION 7. **(removed by Ord. 754 as of June 1, 2005) (replaced with following in Ord 789 as of July 30, 2007)** Maximum Service Fees. Notwithstanding anything in this Ordinance to the contrary, there shall be a Maximum Service Fee, defined herein below, due at the time of annexation for a Development Parcel. The Maximum Service Fee shall not be applicable to the Service Fee due at the time the District is required to sign the first IEPA permit application or Connection Permit application for the Development Parcel. The Maximum Service Fee due at the time annexation of a Development Parcel shall be a fee equal to 40 times the Residential Service Fee, current on the date of annexation of the Development Parcel (Maximum Service Fee). The Maximum Service Fee shall apply to Residential, Commercial/Industrial and Mixed-Use Development Parcels. The Maximum Service Fee due at the time of annexation as of the date of this Ordinance is \$112,000.00 (40 \* \$2,800.00 = \$112,000.00). The General Manager of the District may require a Develop to divide a Development Parcel for purposes of Annexation and the determination of the Maximum Service Fee in order to simplify the annexation process, limit the size and configuration of the Development Parcel, reduce the number of Owners of a Development Parcel, or other cause determined by the General Manager.

SECTION 8. Treatment Plant Capacity/Sewer Recapture. No treatment plant capacity shall be reserved unless prior payment in good funds is received by the District and an appropriate annexation ordinance or

other agreement is entered into by the District. The District is not obligated to annex any Development Parcel or provide sewage treatment service to any Owner, Developer, or Applicant until the District has entered into an appropriate agreement or ordinance of annexation or as otherwise provided by law and nothing in this Ordinance shall be construed to indicate otherwise. This Ordinance controls the payment of Service Fees in the event of annexation of new territory to the District by ordinance of the Board of Trustees. Sewers and other appurtenances and their construction costs, sewer recapture charges to the District, or any city or village or privately funded sewers, or city or village sewer tap on charges are outside the scope of this Ordinance and are in addition to the fees set forth herein. District sewer recapture charges are due prior to the time of annexation.

SECTION 9. Payment. Service Fees are to be paid by certified check, cashier's or bank check, wire transfer or other cleared funds, prior to the District adopting the ordinance of annexation, executing an IEPA application or issuing a Connection Permit as the case may be.

SECTION 10. Procedure. The staff of the District may establish rules, regulations, and policies for annexation and fee payments to the District for approval by the Board of Trustees by resolution. Sample annexation petitions and such policy statements and resolutions shall be made available to potential Owners, Developers, and Applicants for annexation to the District.

*(Resolution 338) Pursuant to Section 10 of Ordinance 708, there shall be no service fee due by a Developer of a Residential Development Parcel to the District, other than the Residential Service Fee applicable to the Residential Development Parcel, for a community center, clubhouse, meeting room, swimming pool and pool house, tennis courts, restrooms and kitchens ancillary to a community center or a club house, or the like, entrance guard house or gate house, gazebo or picnic pavilion, with or without restrooms or kitchen facilities, collectively referred to as a Residential Community Facility, provided that the following conditions are present:*

1. *The Residential Community Facility is not intended to be operated for any commercial purposes.*
2. *The Residential Community Facility is used primarily by owners and occupants, of the Residential Development and their social guests, as an amenity to the owners and occupants dwellings.*
3. *The Residential Community Facility is ancillary to a Residential Development for which Service Fees have been paid and the designed sewer capacity represents a small portion, of the sewer capacity projected to be generated by the related Residential Development at completion.*

SECTION 11. Service Fee Refunding. Service Fees and sewer recapture fees, paid by a Developer or other applicant prior to annexation in advance of passage of the Annexation Ordinance shall be promptly refunded to the remitter, by the District, in the event that the ordinance is denied, or the application is withdrawn by the Applicant. After passage of the ordinance annexing the Development Parcel, refunds of Service Fees or recapture charges will not be made, except under extraordinary circumstances as may be approved by the Board of Trustees upon good cause shown or as equity may require.

SECTION 12. Variations. The Board of Trustees shall consider requests for variation from the service fee payments and procedure required under this Ordinance, based upon unavoidable hardship or unforeseen circumstances, upon written application signed by the Owner and Developer, of a Development Parcel setting forth the reasons for the request, and the hardship or unforeseen circumstances. The District staff shall prepare a detailed report with respect to the request for consideration by the Board of Trustees. After presentation of the staff report to the Board of Trustees, a notice of public hearing shall be published as set forth in the Sanitary District Act of 1917 for annexation agreements, prior to

consideration of the issue by the Board of Trustees. Upon consideration, the Board shall deny the request by motion or may grant the request in whole or part by the adoption of an ordinance of variation as to the subject Development Parcel or may grant the request by an amendment to this Ordinance.

SECTION 13. Annual Review. These rates and the index shall be reviewed by the District at least annually. If any of the provisions of this Ordinance conflict with the provisions of any existing ordinance, the provisions of this Ordinance shall control.

SECTION 14. Repeal. Any ordinance or any part of an ordinance in conflict herewith is hereby repealed. Ordinance 571 is hereby repealed as of the effective date of this Ordinance. Upon its effective date, this Ordinance shall be applicable to all Development Parcels annexed to the District from and after October 1, 1990 and not applicable to Development Parcels annexed prior to said date.

SECTION 15. Effective Date. This Ordinance shall be in full force and effect from the later of June 1, 2005 or ten (10) days after its passage, approval and publication, as provided by law.

Passed this 16<sup>th</sup> day of June 2003 (Ordinance Number 708), Passed this 28<sup>th</sup> day of March 2005 (Ordinance Number 754), Passed this 27<sup>th</sup> day of April 2009. (Ordinance Number 809), Passed this 14<sup>th</sup> day of February 2011. (Ordinance Number 826)