

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2019 Legislative Session

Resolution No. CR-43-2019

Proposed by Council Member Turner

Introduced by Council Members Turner, Davis, Glaros and Taveras

Date of Introduction May 29, 2019

RESOLUTION

1 A RESOLUTION concerning

2 The Washington Suburban Sanitary Commission

3 For the purpose of modifying the System Development Charge (SDC) to help finance the capital
4 costs of expanding and augmenting water and sewage systems to accommodate service to
5 subscribers in the Washington Suburban Sanitary District (WSSD) and to provide a financing
6 mechanism to aid the Washington Suburban Sanitary Commission (Commission) in paying for
7 the capital projects thereof by providing methods and procedures by which the SDC is to be
8 implemented and/or collected.

9 WHEREAS, the Maryland General Assembly adopted House Bill 883, Chapter 559, 1993
10 Laws of Maryland, System Development Charge legislation during its 1993 Session, a bill which
11 provides the enabling authority for the Montgomery and Prince George's County Councils to
12 establish a fee which will be paid by applicants for new service; and

13 WHEREAS, the Maryland General Assembly adopted House Bill 832, Chapter 713, 1998
14 Laws of Maryland, System Development Charge legislation during its 1998 Session, a bill
15 which, among other things, alters the schedule for the payment of the System Development
16 Charge to the Commission for certain properties; establishes a new maximum System
17 Development Charge per fixture unit; allows for and limits the amount of certain exemptions;
18 establishes a maximum System Development Charge based on the number of toilets per
19 dwelling; authorizes a change in the maximum System Development Charge for certain
20 residential units based on the number of toilets per dwelling; and

21 WHEREAS, the Commission owns and operates various water treatment and sewage
22 treatment disposal plants and facilities within the WSSD and utilizes and has an equity share in

1 sewage treatment plants operated by other jurisdictions to treat sewage generated in portions of
2 the WSSD; and

3 WHEREAS, it is necessary that the Commission, with the advice and consent of the local
4 governing bodies within the WSSD, develop alternative funding to cover the costs of providing
5 quality water and sewer service in the WSSD, and to similarly accommodate new growth therein
6 as authorized by the County Governments; and

7 WHEREAS, the System Development Charge is a component of the Commission's Fiscal
8 Year 2020 Capital and Operating budgets prepared pursuant to Section 17-202, Public Utilities
9 Article, of the Annotated Code of Maryland; and

10 WHEREAS, the Commission modified the System Development Charge effective July 1,
11 1995 to \$160.00 by Commission Resolution No. 95-1475, effective July 1, 1998 to \$200.00 by
12 Commission Resolution No. 98-1555, effective July 1, 1999 to \$203.00 by Commission
13 Resolution No. 99-1578, and continued at \$203.00 by Commission Resolution No. 2000-1604;
14 Commission Resolution No. 2001-1625; Commission Resolution No. 2002-1650; Commission
15 Resolution No. 2003-1674; Commission Resolution No. 2005-1729; Commission Resolution
16 No. 2007-1776; Commission Resolution No. 2008-1802; Commission Resolution No. 2009-
17 1925; Commission Resolution No. 2010-1873; Commission Resolution No. 2011-1917;
18 Commission Resolution No. 2012-1959; Commission Resolution No. 2013-2012 ; Commission
19 Resolution No. 2014-2053; Commission Resolution No. 2015-2084; Commission Resolution
20 No. 2016-2127; Commission Resolution No. 2017-2157; and Commission Resolution No. 2018-
21 2187.

22 WHEREAS, for all of the foregoing reasons it is necessary or desirable to continue the
23 imposition of a System Development Charge fee; and

24 WHEREAS, Chapter 713, 1998 Laws of Maryland, provides that the Montgomery and
25 Prince George's County Councils may adopt, and the Commission may implement, a System
26 Development Charge not to exceed \$203.00 per fixture unit or for residential properties with five
27 or fewer toilets, not to exceed certain enumerated amounts based on the number of toilets per
28 dwelling unit effective July 1, 1998; and

29 WHEREAS, Chapter 713, 1998 Laws of Maryland, provides that on July 1, 1999 and each
30 July 1 of each succeeding year, the maximum charge may be changed by an amount equal to the
31 prior calendar year's change in the consumer price index published by the Bureau of Labor

1 Statistics of the United States Department of Labor for urban wage earners and clerical workers
2 for all items for the Washington D.C. Metropolitan Area; and

3 WHEREAS, the Maryland General Assembly enacted House Bill 636, Chapter 124, 2013
4 Laws of Maryland, System Development Charge Exemptions legislation during its 2013 Session,
5 a bill which allows an exemption of up to \$80,000 to certain properties used primarily for
6 recreational and educational programs and services to youth effective July 1, 2013; and

7 WHEREAS, the consumer price index published by the Bureau of Labor Statistics of the
8 United States Department of Labor, for urban wage earners and clerical workers for all items for
9 the Washington D.C. Metropolitan Area increased 1.5% from November 2017 to November
10 2018; and

11 WHEREAS, the Commission recommends keeping the System Development Charge rates
12 unchanged for FY 2020. However, the Commission recommends increasing the maximum
13 allowable charge by 1.5% from FY 2019 limits in order to maintain future rate flexibility to
14 address future potential growth funding gaps; and

15 WHEREAS, the County Councils of Prince George's County and Montgomery County met
16 and approved the modifications to the System Development Charge set forth below on May 9,
17 2019.

18 NOW, THEREFORE BE IT RESOLVED by the County Council of Prince George's
19 County, Maryland, that the County Council hereby adopts the approved System Development
20 Charge fee schedule as set forth herein. For the purposes of this Resolution, the following
21 definitions apply:

22 A. Definitions.

23 (1) Apartment Unit means one of several single-family residential units within one
24 building that is not a "multi-unit dwelling." For purposes of this resolution, an "apartment
25 unit" must contain at least one full bath and kitchen, but not more than two toilets. An
26 "apartment unit" typically includes, but is not limited to, an individual dwelling unit in a
27 garden, medium or high-rise type residential building.

28 (2) Biotechnology Research and Development or Manufacturing means any development
29 as jointly defined and approved by the Montgomery and Prince George's County Councils
30 as eligible for a waived System Development Charge, more particularly described in
31 Schedule C, attached.

- 1 (3) Drainage Charge is the portion of the System Development Charge applicable to
2 drainage fixture units for apartments and residential properties having five or fewer toilets.
- 3 (4) Drainage Fixture Unit Value is a measure of the probable discharge into the drainage
4 system by a particular plumbing fixture in terms of volume rate of discharge and duration
5 of a single drainage operation and the time between successive operations.
- 6 (5) Dwelling Unit means a single-family housing unit used as a residence, including
7 trailers and mobile homes.
- 8 (6) Elderly Housing means residential units as jointly defined and approved by the
9 Montgomery and Prince George's County Councils as eligible for a waived System
10 Development Charge, more particularly described in Schedule D and Schedule E attached.
- 11 (7) Hookup means the joining of the on-site water and/or sewer line(s) to the
12 Commission's service connection or the installation of plumbing fixtures in a building
13 served by the Commission's water and/or sewer facilities.
- 14 (8) Multi-Unit Dwelling means a building that will accommodate several housing units on
15 a lateral basis; namely, semi-attached houses, row houses, or townhouses used as
16 residences.
- 17 (9) New Service means:
- 18 (a) the first-time hook-up of a property to the Commission's water and/or sewer
19 system; or
- 20 (b) a new connection or increased water meter size for a property previously or
21 currently served by the Commission if the new connection or increased meter size
22 is needed because of a change in the use of the property or an increase in demand
23 for service at the property.
- 24 (10) Non-Residential Unit is a structure not otherwise defined as a Residential Unit,
25 generally commercial or industrial in nature. Examples may include shopping malls, non-
26 residential townhouses, warehouses, industrial buildings, restaurants, schools, dormitories,
27 hospitals, hotels, motels, nursing homes, office buildings, churches, theaters, and similar
28 commercial or industrial buildings.
- 29 (11) Property Used Primarily for Child Care and After-School Care means land with
30 improvements or condominium units, owned in fee simple by an individual or organization
31 licensed by the State of Maryland to provide child day care services, for which child day

1 care or after-school care is a principal use of this property as defined in the Montgomery
 2 County or Prince George's County Zoning Codes, as applicable. This exemption is assumed
 3 to include condominiums as fee simple property, consistent with *Andrews v. City of*
 4 *Greenbelt*, 293 Md. 69 (1982).

5 (12) Property Used Primarily for Programs and Services for Developmentally Disabled
 6 Individuals means land with improvements or condominium units, owned in fee simple by
 7 an individual or organization licensed by the State of Maryland to provide services to
 8 developmentally disabled individuals, for which services to developmentally disabled
 9 individuals is a principal use of this property as defined in the Montgomery County or
 10 Prince George's County Zoning Codes, as applicable. This exemption is assumed to include
 11 condominiums as fee simple property, consistent with *Andrews v. City of Greenbelt*, 293
 12 Md. 69 (1982).

13 (13) Property Used Primarily for Recreational and Educational Programs and Services to
 14 Youth means real property, owned in fee simple, by a Community Based Organization as
 15 jointly defined and approved by the Montgomery and Prince George's County Councils as
 16 eligible for a System Development Charge exemption, more particularly described in
 17 Schedule F, attached.

18 (14) Public Sponsored or Affordable Housing means residential units as jointly defined and
 19 approved by the Montgomery and Prince George's County Councils as eligible for a waived
 20 System Development Charge, more particularly described in Schedule A, attached.

21 (15) Residential Unit means any housing unit defined in Paragraphs 1, 5, 6, 8 and 13, above
 22 used as a residence.

23 (16) Revitalization means any development as jointly defined and approved by the
 24 Montgomery and Prince George's County Councils as eligible for a waived System
 25 Development Charge, more particularly described in Schedule B, attached.

26 (17) System Development Charge means that charge imposed by the Commission pursuant
 27 to the provisions of Section 25-401 et seq. of the Public Utilities Article, Annotated Code of
 28 Maryland. (Maximum allowable System Development Charge is the maximum charge
 29 authorized by law, but not necessarily imposed in a given year.)

30 (18) Toilet is a water closet as set forth in the WSSD Plumbing and Gas fitting Regulations.

31 (19) Water Supply Charge is the portion of the System Development Charge applicable to

1 water supply fixture units for apartments and residential properties having five or fewer
2 toilets.

3 (20) Water Supply Fixture Unit Value is a measure of the probable hydraulic demand on
4 the water supply by a particular plumbing fixture in terms of volume rate of supply and
5 duration of a single supply operation and the time between successive operations.

6 BE IT FURTHER RESOLVED, that the System Development Charge for non-residential
7 properties and dwelling units or multi-unit dwellings with more than five toilets for Fiscal Year
8 2020 shall be as follows:

- 9 (1) The base System Development Charge for a water supply fixture with an
10 assigned fixture unit value of 1 is \$88.00.
- 11 (2) The base System Development Charge for a drainage fixture with an assigned
12 drainage fixture unit value of 1 is \$115.00.
- 13 (3) The amount of the System Development Charge for the above shall be based
14 on the number of plumbing fixtures and the assigned values for those fixtures
15 as set forth in the Plumbing and Gas fitting Regulations of the WSSD; and

16 BE IT FURTHER RESOLVED, that the System Development Charge for residential units
17 with five or fewer toilets shall be as follows:

- 18 (1) The water supply charge for each apartment unit is \$896.00 and the drainage
19 charge is \$1,140.00.
- 20 (2) The water supply charge for each dwelling unit or housing unit within a multi-
21 unit dwelling with one or two toilets is \$1,344.00 and the drainage charge is
22 \$1,710.00.
- 23 (3) The water supply charge for each dwelling unit or each housing unit within a
24 multi-unit dwelling with three or four toilets is \$2,240.00 and the drainage
25 charge is \$2,850.00.
- 26 (4) The water supply charge for each dwelling unit or each housing unit within a
27 multi-unit dwelling with five toilets is \$3,135.00 and the drainage charge is
28 \$3,991.00; and

29 BE IT FURTHER RESOLVED, that since the Consumer Price Index for the Washington,
30 D.C. Metropolitan Area increased 1.5% from November 2017 to November 2018, the
31 Commission is increasing the maximum allowable charge by 1.5%, while maintaining the base

1 charge for Fiscal Year 2020. This provides the Commission the ability in future fiscal years to
2 increase the base System Development Charge for water supply fixtures with an assigned fixture
3 value of 1 from \$88.00 to a maximum of \$132.00 and the base System Development Charge for
4 a sewage drainage fixture with an assigned drainage fixture unit value of 1 from \$115.00 to a
5 maximum of \$173.00; and

6 BE IT FURTHER RESOLVED, that the System Development Charge, as established
7 herein shall be paid to the Commission at the time of application for plumbing permit to install
8 fixtures or hookup(s) to the Commission's water and/or sewage system(s) except that an
9 applicant for a plumbing permit for a residential unit may pay the System Development Charge
10 in two payments as follows:

11 (1) One-half at the time of Plumbing Permit Application.

12 (2) The remaining one-half within 12 months after the first payment or prior to the
13 transfer of title to the property, whichever occurs first.

14 At the time of the first payment, the applicant for the plumbing permit for a
15 residential unit shall deposit with the Commission security for the second payment in an
16 amount and form established and approved by the Commission; and

17 BE IT FURTHER RESOLVED, that the fees established herein shall be in addition to, and
18 not a substitution for, any other fees, rates, charges, or assessments allowed by law; and

19 BE IT FURTHER RESOLVED, that the System Development Charge shall be waived for
20 any public sponsored or affordable housing as defined in Schedule A; and

21 BE IT FURTHER RESOLVED, that the System Development Charge may be fully or
22 partially waived for Revitalization as defined in Schedule B, in accordance with the separate
23 administrative approval process adopted in Prince George's County and in Montgomery County;
24 and

25 BE IT FURTHER RESOLVED, that the System Development Charge may be reduced up
26 to \$43.00 per combined fixture unit value for any Biotechnology Research and Development or
27 Manufacturing project as defined in Schedule C; and

28 BE IT FURTHER RESOLVED, that the System Development Charge may be reduced up
29 to \$43.00 per combined fixture unit value for Elderly Housing as defined in Schedule D, and as
30 shown on Schedule E; and

31 BE IT FURTHER RESOLVED, that the System Development Charge may be reduced up

1 to \$80,000 for Property used Primarily for Recreational and Educational Programs and Services
2 to Youth as defined in Schedule F; and

3 BE IT FURTHER RESOLVED, that the System Development Charge may be fully or
4 partially waived for any property used primarily for child day care or after-school care, as
5 defined herein as A. Definitions, Paragraph (11); and

6 BE IT FURTHER RESOLVED, that the System Development Charge may be fully or
7 partially waived for any property used primarily for programs and services for developmentally
8 disabled individuals, as defined herein as A. Definitions, Paragraph (12); and

9 BE IT FURTHER RESOLVED, that the full or partial exemption of the Systems
10 Development Charge provided in any one year for projects defined in Schedules B, C, and D
11 shall not exceed one million dollars with one half of the exemption amount to be allocated on a
12 fiscal year basis to properties located in Prince George's County and one half to properties
13 located in Montgomery County; and

14 BE IT FURTHER RESOLVED that any remainder of the annual allocation amount will not
15 lapse at the end of the fiscal year, but shall be carried over into the ensuing fiscal year and be
16 available for allocation within the same jurisdiction in addition to the approved annual allocation
17 for the current fiscal year; and

18 BE IT FURTHER RESOLVED, that nothing herein shall be construed to prevent the
19 County Councils from jointly, by joint resolutions, increasing the annual allocation amount
20 provided for the System Development Charge exemption; and

21 BE IT FURTHER RESOLVED, that nothing herein shall be construed as creating a
22 contract between the Commission and the applicant for service, and that the providing of water
23 and/or sewer service to an applicant's property shall be subject to intervention of other
24 governmental authority; and the duly adopted policies of Montgomery and Prince George's
25 Counties, and the Commission's ability to otherwise provide such service; and

26 BE IT FURTHER RESOLVED, that Prince George's County Council Resolution 32-2018,
27 adopted May 24th, 2018, is hereby superseded by this Resolution; and

28 BE IT FURTHER RESOLVED, that the System Development Charge established herein
29 shall take effect on July 1, 2019.

Adopted this 29th day of May, 2019.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

SCHEDULE A

“Public sponsored or affordable housing” means:

- (1) Any dwelling unit built or financed under a government program, regulation, or binding agreement that limits for at least 10 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 80% of the area median income, adjusted for family size;
- (2) Any Moderately Priced Dwelling Unit built under Chapter 25A of the Montgomery County Code or Subtitles 13 and 27 of the Prince George's County Code;
- (3) Any Productivity Housing Unit, as defined in Section 25B-17 (k) of the Montgomery County Code;
- (4) Any unit in an Opportunity Housing Project built under Sections 56-28 through 56-32 of the Montgomery County Code or Subtitle 13, Division 8, of the Prince George's County Code, which is reserved for occupancy only by persons with low or moderate incomes (as defined in applicable provisions of State and County Law);
- (5) Any dwelling unit constructed pursuant to the Capturing Housing Opportunities in Communities Everywhere (CHOICE) Program in Prince George's County which is reserved for occupancy only by persons with low or moderate incomes (as defined in applicable provisions of State and County Law).

SCHEDULE B

“Revitalization” means a project located in one of the following geographic areas and meeting any additional criteria that may be adopted by the respective county council or applicable municipal council:

- (a) Any state designated revitalization area as defined by the Maryland Department of Housing and Community Development (DHCD)
- (b) Any state designated enterprise zone as defined by the Maryland Department of Commerce
- (c) Any federally designated economic development district as defined by the U.S. Department of Commerce, Economic Development Administration (EDA)
- (d) Any federally designated empowerment zone and developable sites as defined by the U.S. Department of Housing and Urban Development (HUD)
- (e) Any Transit District Overlay Zone (T-D-O Zone) as defined by Subtitle 27, Part 10A, Division 1, of the Prince George's County Code
- (f) Any Prince George's County designated revitalization area as defined in Subtitle 10 of the Prince George's County Code
- (g) Any state designated Neighborhood Business Development Program, as defined in Subtitle 3, of Title 6, of the Housing and Community Development Article of the Annotated Code of Maryland
- (h) Any Montgomery County Designated Neighborhoods, as determined by the Montgomery County Executive and County Council, as a revitalization neighborhood for activities that will act to preserve, stabilize, and enhance the social, physical, and economic conditions of the neighborhood. Activities may include concentrated housing code inspections and enforcement, housing rehabilitation, social service programs, public infrastructure improvements and private and/or public capital investment; or
- (j) a property used for the production of alcoholic beverages.

SCHEDULE C

“Biotechnology Research and Development or Manufacturing” means:

Any activity that substantially involves research, development, or manufacturing of:

- (1) Biologically active molecules;
- (2) Devices that employ or affect biological processes; or
- (3) Devices and software for production or management of specific biological information.

SCHEDULE D

“Elderly Housing” includes the following types of housing:

As defined in the Prince George's County Zoning Ordinance:

Sec. 27-107.01. Definitions

(a) Terms in the Zoning Ordinance are defined as follows:

- (20.3) Assisted Living Facility
- (54) Congregate Living Facility
- (151) Mixed Retirement Development

Sec. 27-352.01 Elderly Housing (one-family attached dwellings)

Sec. 27-374. Medical/residential campus

Sec. 27-395 Planned retirement community

OR

As defined in the Montgomery County Zoning Ordinance:

Section 59-G-2.35 Housing and related facilities for senior adults and persons with disabilities

Section 59-G-2.35.1 Life Care (continuing care) facility

Section 59-C-7.4. Housing constructed in a planned retirement community zone

OR

As defined in a municipal zoning ordinance in a municipality having separate zoning powers and that is found by the Director of the Department of Housing and Community Affairs to be equivalent to the definition for the county in which the municipality is located. The review of equivalency should be based upon age of occupants and the inclusion of assisted living dwelling units.

SCHEDULE E

Maximum “elderly housing” exemptions are as follows:

- | | |
|--|--|
| 1. Apartment unit | \$436.00 |
| 2. Dwelling Unit or housing unit within a Multi-Unit Dwelling with one or two toilets | \$654.00 |
| 3. Dwelling Unit or housing unit within a Multi-Unit Dwelling with three or four toilets | \$1,090.00 |
| 4. Dwelling Unit or housing unit within a Multi-Unit Dwelling with five toilets | \$1,526.00 |
| 5. For other housing that meets the elderly housing exemption criteria | Not more than \$43 per combined fixture unit value |

SCHEDULE F

1. “Property Used Primarily for Recreational and Educational Programs and Services to Youth” means:

Real property, owned in fee simple, by a Community Based Organization, located within the Washington Suburban Sanitary District, which is used to advance the mission and purpose of providing program and services to youth in Prince George’s and/or Montgomery County.

2. “Community Based Organization” means:

A not-for-profit entity duly incorporated in or authorized to do business by the State of Maryland and in good standing under the laws of the State of Maryland, which has as its primary mission and purpose to provide recreational and educational programs and services to youth in Prince George’s and/or Montgomery County.

3. “Exempt from Taxation” means:

A not-for-profit, charitable or educational organization as determined by the Internal Revenue Service, under Section 501 (c) (3) of the Internal Revenue Code.