COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2018 Legislative Session

Resolution No. CR-32-2018

Proposed by Council Member Glaros

Introduced by Council Members Glaros, Lehman, Turner, Taveras, Franklin, and Patterson

Date of Introduction May 24, 2018

RESOLUTION

A RESOLUTION concerning

The Washington Suburban Sanitary Commission

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

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

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

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

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

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

WHEREAS, the System Development Charge is a component of the Commission's Fiscal Year 2019 Capital and Operating budgets prepared pursuant to Section 17-202, Public Utilities Article, of the Annotated Code of Maryland; and

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

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

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

WHEREAS, Chapter 713, 1998 Laws of Maryland, provides that on July 1, 1999 and each July 1 of each succeeding year, the maximum charge may be changed by an amount equal to the prior calendar year's change in the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers

for all items for the Washington D.C. Metropolitan Area; and

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

WHEREAS, the consumer price index published by the Bureau of Labor Statistics of the United States Department of Labor, for urban wage earners and clerical workers for all items for the Washington D.C. Metropolitan Area increased 1.6% from November 2016 to November 2017; and

WHEREAS, the Commission recommends keeping the System Development Charge rates unchanged for FY 2019. However, the Commission recommends increasing the maximum allowable charge by 1.6% from FY 2018 limits in order to maintain future rate flexibility to address future potential growth funding gaps; and

WHEREAS, the County Councils of Prince George's County and Montgomery County met and approved the modifications to the System Development Charge set forth below on May 10, 2018.

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

A. Definitions.

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

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

(3) Drainage Charge is the portion of the System Development Charge applicable to

drainage fixture units for apartments and residential properties having five or fewer toilets.

(4) Drainage Fixture Unit Value is a measure of the probable discharge into the drainage system by a particular plumbing fixture in terms of volume rate of discharge and duration of a single drainage operation and the time between successive operations.

(5) Dwelling Unit means a single family housing unit used as a residence, including trailers and mobile homes.

(6) Elderly Housing means residential units as jointly defined and approved by the Montgomery and Prince George's County Councils as eligible for a waived System Development Charge, more particularly described in Schedule D and Schedule E attached.

(7) Hookup means the joining of the on-site water and/or sewer line(s) to the Commission's service connection or the installation of plumbing fixtures in a building served by the Commission's water and/or sewer facilities.

(8) Multi-Unit Dwelling means a building that will accommodate several housing units on a lateral basis; namely, semi-attached houses, row houses, or townhouses used as residences.

(9) New Service means:

(a) the first-time hook-up of a property to the Commission's water and/or sewer system; or

(b) a new connection or increased water meter size for a property previously or currently served by the Commission if the new connection or increased meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

(10) Non-Residential Unit is a structure not otherwise defined as a Residential Unit, generally commercial or industrial in nature. Examples may include shopping malls, non-residential townhouses, warehouses, industrial buildings, restaurants, schools, dormitories, hospitals, hotels, motels, nursing homes, office buildings, churches, theaters, and similar commercial or industrial buildings.

(11) Property Used Primarily for Child Care and After-School Care means land with improvements or condominium units, owned in fee simple by an individual or organization licensed by the State of Maryland to provide child day care services, for which child day care or after-school care is a principal use of this property as defined in the Montgomery

County or Prince George's County Zoning Codes, as applicable. This exemption is assumed to include condominiums as fee simple property, consistent with *Andrews v. City of Greenbelt*, 293 Md. 69 (1982).

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

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

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

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

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

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

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

(19) Water Supply Charge is the portion of the System Development Charge applicable to water supply fixture units for apartments and residential properties having five or fewer

toilets.

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

BE IT FURTHER RESOLVED**,** that the System Development Charge for non-residential properties and dwelling units or multi-unit dwellings with more than five toilets for Fiscal Year 2019 shall be as follows:

(1) The base System Development Charge for a water supply fixture with an assigned fixture unit value of 1 is $88.00.

(2) The base System Development Charge for a drainage fixture with an assigned drainage fixture unit value of 1 is $115.00.

(3) The amount of the System Development Charge for the above shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the Plumbing and Gas fitting Regulations of the WSSD; and

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

(1) The water supply charge for each apartment unit is $896.00 and the drainage charge is $1,140.00.

(2) The water supply charge for each dwelling unit or housing unit within a multi-unit dwelling with one or two toilets is $1,344.00 and the drainage charge is $1,710.00.

(3) The water supply charge for each dwelling unit or each housing unit within a multi-unit dwelling with three or four toilets is $2,240.00 and the drainage charge is $2,850.00.

(4) The water supply charge for each dwelling unit or each housing unit within a multi-unit dwelling with five toilets is $3,135.00 and the drainage charge is $3,991.00; and

BE IT FURTHER RESOLVED, that since the Consumer Price Index for the Washington, D.C. Metropolitan Area increased 1.6% from November 2016 to November 2017, the Commission is increasing the maximum allowable charge by 1.6%, while maintaining the base charge for Fiscal Year 2019. This provides the Commission the ability in future fiscal years to

increase the base System Development Charge for water supply fixtures with an assigned fixture value of 1 from $88.00 to a maximum of $130.00 and the base System Development Charge for a sewage drainage fixture with an assigned drainage fixture unit value of 1 from $115.00 to a maximum of $170.00; and

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that the System Development Charge may be reduced up to $80,000 for Property used Primarily for Recreational and Educational Programs and Services

to Youth as defined in Schedule F; and

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that Prince George's County Council Resolution 43-2017, adopted May 25th, 2017, is hereby superseded by this Resolution; and

BE IT FURTHER RESOLVED, that the System Development Charge established herein shall take effect on July 1, 2018.

Adopted this 24th day of May, 2018.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

BY: _____
Dannielle M. Glaros
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.