

ISSUE: Consideration of an Ordinance to amend the City Code to adjust the timing of collection of the sanitary sewer tap fees.

RECOMMENDATION: That City Council:

1. Receive and approve the proposed ordinance (Attachment 2) to amend the timing of the payment of the sanitary sewer tap fees to allow for payment of such fees at the first Certificate of Occupancy for projects that are a development site plan or development special use permit; and
2. Schedule it for a second reading, public hearing and final passage on Saturday, March 16, 2024.

BACKGROUND: The City currently collects sanitary sewer tap fees prior to release of final site plans, which includes development site plans, special use permits, and grading plans. In response to a request from members of the development industry to update the timing of collection of sanitary tap fees, the City's staff formed an interdepartmental team comprised of Transportation and Environmental Services (T&ES), Code Administration (Code), Planning and Zoning (P&Z), Information Technology Services (ITS), and the City Attorney's Office, to discuss the issues associated with this potential update, including interpretation of the Virginia and City Codes, adding the sanitary sewer tap fee collection into APEX, the City's Permitting and Land Use System, later in the permitting processes, and the responsibility for collecting the fee. The team was able to effectively solve the internal process questions, and providing this City Code update will be the final piece required to achieve the desired objectives.

DISCUSSION: Staff met with the development community to hear their concerns regarding the timing of when the sanitary sewer tap fees are paid, which is commonly done prior to the release of the final site plan. In hearing from the development industry stakeholders, it has been determined that based on how projects are financed, it can be challenging for the developers to pay the sanitary sewer tap fees at the final site plan release due to the amount they are allowed to draw from their loans at certain stages of the design, and therefore, requests are being made to move the collection to later in the permitting process. During the disposition of the Certificate of Occupancy, the developer will be able to draw the necessary funds to pay the sanitary sewer tap fee more readily and will be able to carry the tap fee on the loan for less time, thereby saving on interest charges.

Staff explored several possibilities for changing the timing of sanitary sewer tap fee payments and recommends that the collection of fees occur at the first Certificate of Occupancy (CO) based on the following:

- Align the collection at the closest time based on when the proposed development would start sending flows into the sanitary sewer system;
- Can easily be implemented into the City's APEX workflows ensuring that fees are reviewed and paid;
- Is consistent with neighboring jurisdictions' policies and procedures, including Prince William County and Loudoun County;
- Does not impact the overall funding or timing of existing City sanitary sewer programs and projects; and
- Is supported by the development community.

The Shell and Core CO Permit is the first occupancy permit for a new construction building and Change of Use CO Permit is applicable to buildings undergoing a conversion from one type of use, such as office space, to a different type of use, such as residential. At one of these two stages (as appropriate for the type of project) the

APEX workflow will be created by Code and will be routed to T&ES to verify that the entire sanitary sewer tap fee is fully paid before the request moves forward. This will guarantee that the tap fees are collected at the appropriate time.

These fees fund Capital Improvement Projects (CIP) and T&ES's Sanitary Infrastructure Division has confirmed that collecting these fees at a later date will not impact the overall timing of anticipated or future projects as long as the full amount of the funds are collected. The amount of the sanitary sewer tap fee will continue to be set and calculated at the final site plan submission and noted in APEX. For grading plans, the sanitary sewer tap fee will continue to be collected at the grading plan approval since the amount of the fee, the typical demolition credit, and the timeline of grading plans has not created the same conditions as it has for Site Plans. The proposed City Code updates will reflect these changes with several code sections amended, and the fee will continue to be adjusted annually per City Code Section 5-6-25.1 and issued via a Memorandum to Industry.

The timing of the collection of the sanitary sewer tap fees will apply to all future sites and any existing entitled site plans will be able to take advantage of this update with a minor amendment change to their approval conditions. This updates the previous standard condition to reference that the fee will be paid in compliance with the City Code. This change may help some site plan projects move to the building permit stage and was supported by the development industry when it was presented at the Northern Virginia Commercial Real Estate Development Association (NAIOP).

FISCAL IMPACT: There are no anticipated financial impacts. The amount of the sanitary sewer tap fees are not changing with this City Code update.

ATTACHMENTS:

1. Ordinance Cover
2. Ordinance
3. Presentation

STAFF:

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