



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** OCTOBER 4, 2017

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER

**DOCKET TITLE:**

Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Amend and Reordain Section 5-6-25.1 (SEWER CONNECTION PERMITS AND SERVICE FEES; CONSTRUCTION COSTS; CONSTRUCTING SEWERS BY OWNERS RATHER THAN CITY; ADDITIONAL CONNECTIONS) of Article B (SEWAGE DISPOSAL AND DRAINS) of Chapter 6 (WATER AND SEWER) of Division 1 (GENERAL Provision) of the Code of the City of Alexandria, Virginia, 1981, as amended (THIS AMENDMENT IS NOT RECOMMENDED)

**ISSUE:** Consideration of a proposed ordinance which would modify the existing Code to create a phase-in period for sewer connection fees associated with conversions of buildings from one use to another, such as from non-residential to residential.

**RECOMMENDATION:** That City Council NOT adopt the attached ordinance, and instead maintain the existing ordinance for sanitary sewer connection fees.

**NOTE:** If City Council would like to consider a change to the ordinance, although not recommended for adoption, staff has provided a draft ordinance (Attachment 1) that would add a phase-in period to the sewer tap fee calculation for redevelopment that involves the conversion of the existing use of a building to a new use. In this case, City Council could decide to adopt the proposed ordinance on first reading and set the ordinance for public hearing and final passage on October 14, 2017.

**DISCUSSION:** In May 2013, City Council made several major changes to the Sewer Connection Fee Ordinance in conjunction with adoption of the Sanitary Sewer Master Plan. The changes included:

- The provision for connection fees when an existing structure changes use or conversion of use takes place,
- An increase in the multi-family residential connection fee,
- Establishment of a connection fee category for hotel uses,

- Provision for a teardown credit when an existing sewer connection is removed and replaced with a new connection,
- Established that connection fees will be adjusted to the current fee if an extension is required for a site plan, and;
- Established that future changes to the connection fees would be based on the local Consumer Price Index for Urban Consumers (CPI-U).

There was an extensive outreach to the development community at the time of adoption of Sanitary Sewer Master Plan and changes to the connection fee.

Since the adoption of the changes to the Sewer Connection Fee Ordinance, there have been two cases where conversions of use (in these cases from commercial to residential) took place:

- 4501 Ford Avenue (2015) - Commercial building converted to e-lofts configured to be used as home, office or both
- 801 North Fairfax Street (2016) - Commercial building initiated conversion to residential multi-family units

In the case of Ford Avenue, staff calculated a fee according to the approved Code where “usage” was interpreted as increasing flows. The following year, when considering the North Fairfax Street location, City staff, in consultation with the City Attorney’s Office, reviewed the proposed fee and adjusted the calculation to interpret “increase in usage” as a “net increase in units” and change in land use. This interpretation is consistent with how sewer connection fees are spelled out in the Code and consistent with the original intent of the 2013 ordinance change. This methodology simply calculates what the sewer connection fee would be for the building as a non-residential use and as a residential use per the Code and charges the net difference in the fee if the same connection (or tap) is used. If a new sewer tap is constructed, the credit applied is equal to 50 percent of the fee for the existing use, consistent with the policy for the removal (or teardown) of an existing building.

To ensure that the development community was aware of how sewer connection fees for conversions would be calculated, staff clarified the process in a July 2016 Memo to Industry (Attachment 3), which was widely distributed to stakeholders in the development and building industry. This memo was then posted and remained available on the City website.

With multiple, multi-unit commercial-to-residential conversions now coming forward, there have been new questions raised about the 2013 ordinance change. At the September 16, 2017 City Council Public Hearing, the developer for an office-to-residential conversion at 200 Stovall Street articulated that the “net increase in units” language (though legally clear in the City Code) created a financial burden to the project and might be a disincentive to conversions generally.

Since the September 16 Public Hearing, staff has reviewed the City Code section as well as evaluated how other jurisdictions handle sewer fees for similar types of conversion projects. While different jurisdictions use different methodologies to calculate the fees for non-residential and residential uses, all of the neighboring jurisdictions reviewed (including Fairfax, Arlington and Prince William Counties) charge a connection fee for conversions using the net difference of the proposed use minus the existing use.

City staff recommends that City Council maintain the existing ordinance for sewer connection fees for the following reasons:

1. The methodology for calculating the sewer connection fee for conversion of non-residential use to residential use is consistent with the intent and language of the existing Code for establishing the

appropriate contribution of a use to support capital investment in the City's sanitary sewer system. This methodology correctly assumes that peak sewer use for residential is much greater than office use in both system capacity demand and system costs.

2. While each adjacent locality has a unique way of establishing connection fees, the methodology used by the City for conversions is consistent with adjacent localities.
3. Extensive outreach took place at the time of original adoption of Sanitary Sewer Master Plan in 2013;
4. For the class of conversions that requires an additional or a new tap, the Code is explicit with respect to applicable fees and credits; and
5. Staff provided (via the Memo to Industry in July, 2016) a clarification of fee calculation for a narrow class of conversions that did not require a new or additional tap. A Memo to Industry is a standard clarification tool used to notify developers, engineers and contractors when the City updates construction/building standards, clarifies code and/or adjusts fees.

The question has been raised as to whether the City should financially incent the conversion of obsolete office to residential use. While it is important to change regulatory processes to facilitate the conversion of obsolete office to residential, I do not recommend providing financial incentives for such conversions. First, financial incentives could accelerate such conversions by lowering the financial threshold under which such conversions from office to residential could take place. Second, when buying an obsolete office building the buyer and seller in setting a mutually agreeable sale/purchase price take into consideration the costs of conversion to residential use. In effect the costs of conversion are "baked" into the sales price. Sewer tap fees for conversion are one of those cost items. If the tap fees are lowered, it may just result in a higher price being paid for an obsolete office building by buyers. While there are many factors that influence a sales price, I think you would find most real estate professionals would agree with the above stated premises on pricing land sales.

However, if City Council believes that additional notification should be provided to the development community, staff has crafted an amendment to existing City Code Section 5-6-25.1 for a two-step "phase-in period" for sewer tap fees for redevelopments that involve conversion of existing commercial use to proposed residential use. This phase-in period would allow the development community to make appropriate financial calculations and account for sewer connection fee costs in their conversion projects if they have not already been calculated. The proposed change would provide a process for fee payment at final site plans (or issuance of building permits if a final site plan is not required). This phase-in period provides a sewer service connection fee of 50 percent of the City Code stipulated amount for conversions approved or granted between May 18, 2013 and June 30, 2018. The fee would be 75 percent of the Code stipulated amount for approvals granted between July 1, 2018 to June 30, 2019, after which the full fee would be assessed.

**FISCAL IMPACT:** Estimating annual sewer connection fee revenue is challenging because of the variability in the amount of development or redevelopment that may occur in any given year. Staff used redevelopment projections for known and potential conversion projects provided by the Department of Planning and Zoning to estimate the impact of the attached ordinance, should Council decide to adopt it. If the fee phase-in is adopted by Council, staff has estimated a loss of revenue in the Sanitary Sewer Enterprise Fund of between \$3 million and \$4 million based on potential conversions that may occur through the end of FY 2019. Most of this loss would be attributed to the 200 Stovall Street Project.

**ATTACHMENTS:**

Attachment 1: Draft Ordinance Cover

Attachment 2: Draft Ordinance Change

Attachment 3: July 2016 Memo to Industry

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