

11/14/22
11/21/22

ORDINANCE NO. M-4392

AN ORDINANCE relating to system development charges, amending Section 14.04.235 of the Vancouver Municipal Code; providing for an increase to the system development charges for the water and sewer utility, indexing annual increases of the system development charge to the appropriate Consumer Price Index; and providing clauses for savings, severability, and an effective date.

WHEREAS, the City underwent a rate study that recommended an increase in the water and sewer utility system development charges so the development community pays its fair share for upcoming capital needs; and

WHEREAS, it has been 10 years since the City has raised the system development charges; and

WHEREAS, indexing the system development charges to the appropriate consumer price index helps the fees keep pace with inflation without having to come back to City Council for approval each year; and

WHEREAS, with proper notice to the public, the City Council conducted a first reading of the proposed ordinance on November 14, 2022, and a public hearing concerning the ordinance and proposed code changes on November 21, 2022.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

SECTION 1. Vancouver Municipal Code Section 14.04.235, as last amended by

Ordinance M-4359, is hereby amended to read as follows:

14.04.235 System development charges – Connection fees.

A. *General.* The following facts are found by city council based upon staff reports furnished to it and upon the testimony and evidence presented at public hearings:

1. Findings of fact made in Section (1) of Ordinance M-2267 and in the whereas clauses thereto are ratified and confirmed and this section is adopted pursuant to and consistent with RCW 35.92.025.
2. The need for connection charges has been previously established through engineering studies, task force reports, consultant reports and council action.
3. This chapter is consistent with the intent of previous ordinances and resolutions relating to system development charges.
4. It is found desirable to provide the director with the authority to establish rules and regulations necessary to administer collection of system development charges; provided, that such rules and regulations shall be consistent with the intent of this chapter and related resolution.
5. The "unit" or "equivalent dwelling unit" measure used in this chapter is found to be the best method available to council to provide that customers will bear their equitable shares of the cost of the utility system and is found to comply with RCW 35.92.025.

B. *Definitions.* The following definitions are adopted for the following words and phrases as used for computing system development charges (connection fees):

“Accessory Dwelling Unit” (ADU) means one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit within or attached to a single-family dwelling or in a detached building on the same lot as the primary dwelling unit. An ADU is distinguishable from a duplex in that, unlike a duplex, it is clearly subordinate to the primary dwelling unit, both in use and appearance. Approved ADU’s shall not be subject to the separate metering requirements of VMC 14.04.190(I).

"Average daily attendance (ADA)" means the average number of students attending an elementary or secondary school used for the design of the facility.

"Commercial unit" means any building or facility used for any purpose other than dwelling.

"Dry industry" means any industry which does not produce industrial waste as defined in VMC 14.12.010.

"Dwelling unit" means one room or a suite of two or more rooms, designed for or used by one family or housekeeping unit for living and sleeping purposes and having one kitchen. Each unit shall provide a complete independent living space for one or more persons, including permanent facilities for living, sleeping, eating, cooking and sanitation.

"Equivalent dwelling unit (EDU)" means any residential or nonresidential use which has been reasonably found by the director to place a demand on the city’s sewerage system or water system approximately equal to the demands thereon by a single-family dwelling.

"Expanded service" means any additional use, expanded use or change in use which will cause an additional demand on the water-sewer utility. Such additional demand shall be recognized to include, but shall not be limited to, the following changes in service:

1. Additional water meter;
2. Increased size of existing water meter;
3. Additional number of dwelling units on an existing water meter or sewer lateral;
4. Any change of occupancy or use which would increase the number of equivalent dwelling units connected or to be connected to an existing water meter or sewer lateral;
5. Expansion of an existing use where the system development charge is independent of the meter equivalent size.

"Fast food restaurant" means a restaurant in which the majority of items sold are served on paper or other nonwashable materials.

"Full-time equivalent (FTE)" means the equivalent number of full-time students attending a post secondary school such as a trade school, college or university.

"Industrial unit" means any building or facility other than a single-family dwelling, multiple-family dwelling, or hotel which discharges or is expected to discharge to the sanitary sewerage system a flow containing a total of more than 50 pounds of suspended solids and BOD in any one day.

"Industrial user" means a nonresidential user of the public sewer who discharges a waste that is distinct from sanitary sewage, resulting in an industrial waste.

"Industrial waste" means any liquid, solid or gaseous material or combination thereof resulting from any process of industry, manufacturing, commercial, food processing, business, agriculture,

trade or research, including, but not limited to, development, recovering, or processing of natural resources and leachate from landfill or other disposal site.

"Irrigation meter" means a water meter used exclusively for irrigation of landscaped areas.

"Meter equivalent size (MES)" means the hydraulic equivalency of any meter related to a 5/8" by 3/4" meter. By definition a 5/8" by 3/4" meter has an MES of 1.

<u>Meter Size</u>	<u>Meter Equivalent Size (MES)</u>
5/8 " x 3/4"	1.0
1"	2.5
1-1/2"	5.0
2"	8.0
3"	15.0
4"	25.0
6"	50.0
8"	80.0
10"	144.0
12"	231.0

"Mobile home" means any unit used or designed to be used for living or sleeping purposes or both, and which is designed to be equipped with wheels for the purpose of transporting the unit.

"Mobile home park" means a commercial enterprise in which rented or leased space, area, and/or buildings are designed, equipped or maintained for the harboring, parking or storing of two or more trailer coaches, or vehicles which haul such trailer coaches, or motor homes being used as living and/or sleeping quarters for humans; provided, two or more mobile homes located on a single parcel, allowed under a variance, conditional use or nonconforming use, shall be considered as single-family dwellings.

"Multiple family (multifamily) dwelling" means a building or portion thereof designed or used as a residence by two or more families and containing two or more dwelling units. This includes ADU's that share water or sewer service from service connections for the primary residence.

"Noncontact cooling water" means a separate water system exclusively for temperature conditioning that remains in a closed system from the water meter to the point of discharge into a storm sewer or dry well.

"Significant industrial user" means any industrial user of the public sewer system who:

1. Has a discharge flow of 25,000 gallons or more per average workday; or
2. Has a concentration of biochemical oxygen demand (BOD) and suspended solids (SS) in excess of 300 milligrams per liter per average workday; or
3. Is found by the city, State Department of Ecology, or U.S. Environmental Protection Agency to have significant impact on the waste system's effluent quality.

"Single-family dwelling" means a building designed or used for residence purposes by not more than one family and containing one dwelling unit only, including mobile homes when not located in a mobile home park and including condominium units subject to fee simple ownership, and

excluding multiple-family dwellings, apartments and motels. This also includes ADU's that take water and sewer service from service connections separate from the primary residence.

"System development charge (SDC)" means that connection fee charged so that the property upon which it is imposed will pay its equitable share of the costs of water-sewer system facilities which are system-wide in nature and are not site-specific needs, including such property's equitable share of the amount required to upgrade such system to meet the demands imposed by the development.

"Wet industry" means any industry which generates industrial wastes in addition to domestic wastes.

C. Payment Required Prior to Connection. A system development charge is imposed as a connection charge pursuant to RCW 35.92.025 upon all lands in the city and all lands outside the boundaries of the city which connect to either the city water system or sewerage system or to both. The system development charge shall be paid in full with an application for connection to the sewer system or water system; provided, that a building permit application or an application for expanded service has been filed. In any case in which a building permit expires from passage of time any utility connection permit which had been issued for the use provided for in that building permit shall likewise expire and a new system development charge must be paid and a new utility connection permit secured.

D. Waiver and/or Mitigation. The city council may authorize the city manager to enter into a contract to mitigate or waive systems development charges as set forth in this section provided that a written application for such mitigation or waiver is submitted to the director from an applicant proposing a new or expanded development within the city of Vancouver.

In order to be eligible for mitigation or waiver, an applicant shall meet all of the following criteria:

1. *Type of Industry.* The applicant proposes a new development or an expansion of an existing development within the city of Vancouver that is environmentally compatible with the surrounding area and the city as a whole.
2. *Capital Investment Requirement.* Any new development or expansion of an existing development within the city of Vancouver will result in a minimum capital investment of \$100,000,000 over a five-year period. At least \$30,000,000 in capital investment will be completed within the first two years (adjusted for inflation).
3. *Employment Base Requirement.* The employment base generated by any new development or expansion of an existing development within the city of Vancouver shall provide an average annual compensation amount for employees of that new or expanded development equal to or in excess of \$51,742 including all fringe benefits. For existing companies, average annual compensation for employees shall have equaled or exceeded \$51,742 including fringe benefits, bonuses, etc., over the previous two-year period. Effective January 1, 2023, and every January 1st thereafter, the average annual compensation amount set forth above shall be adjusted consistent with VMC 3.08.100. ~~by an amount equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), All Items (West Region), 1967=100, July to July, prepared by the Department of Labor, Bureau of Labor Statistics (the "CPI") or a replacement index.~~

If the director finds that the applicant meets such criteria, the director is authorized to negotiate a performance contract with any such qualifying company. The terms of such performance contract may include, if applicable, a timeline by which the entire capital investment commitment and the established annual compensation requirement shall be met. The extent of

mitigation or the waiver of a systems development charge will be determined on a case-by-case basis which determination shall include, but not be limited to, the following:

- a. The estimated amount and characteristics of waste flow generated by the industry;
- b. The then current capacity and capability of the water-sewer utility;
- c. The number of jobs created by the proposed development and the extent to which such jobs exceed the average annual compensation requirement;
- d. Probability of significant increases in assessed valuation and generation of property tax revenues to reduce the tax burden;
- e. A determination that the location or expansion of the company is in compliance with the land use, transportation and other elements of the city of Vancouver comprehensive plan;
- f. An agreement by the company to contribute to the mitigation of impacts on the provision of public services attributable to the proposed development or expansion as the city of Vancouver deems justifiable.

Each such contract or agreement will include a recapture provision or other remedies to ensure that appropriate systems development charges will be paid by the industry in the event that it fails to meet its contractual obligations. Such recapture provisions shall not be imposed if the industry has made a good faith effort to comply and has failed to do so for reasons beyond its control. Each such contract shall be submitted to the city council for consideration at a public meeting.

E. *Credit for Existing and Prior Uses.* A credit against the system development charge (SDC) may be allowed by the director for the elimination or conversion of existing water services or sewer connections in conjunction with improvement, expansion of use or redevelopment on such parcel. The credit shall be calculated using the prevailing SDC rate schedule and is subject to the following limitations:

1. Existing and prior use sewer and water credit shall be allowed if the director finds that sewer and water capacity is available in the service area; and
 - a. If the existing or prior use has paid monthly water and sewer fees, respectively, within the 10-year period immediately prior to the date of application for connection, the customer may apply for a 100 percent credit against any new SDCs associated with the new use; or
 - b. If the existing or prior use has paid monthly water and sewer fees, respectively, prior to 10 years before the date of application for connection, the customer may apply for a partial credit for previous payments of SDCs, using the entire amount previously paid to be applied as credit against the current SDC charge calculated using the prevailing SDC rate schedule; or
 - c. If the city council approves a development agreement authorized under RCW 36.70B.170 that provides for a use credit for prior water and sewer uses if the city council finds that the proposed development will substantially advance the policies of the comprehensive plan.
2. Calculation of system development charge credits for water or sewer shall be separate, that is, not interchangeable or counter balancing toward one another; and

3. The credit against the SDC shall apply only to the parcel that the existing or prior water service or sewer connection serves; and

4. No refunds shall be allowed for credits which exceed the amount of the SDC for which an application for connection is made.

F. *Credit for System Improvements.* The director will consider requests for project participation by the city for the construction of water and/or sewer extensions or local improvement districts, in the form of a credit against the system development charge (SDC) for system improvements. The restrictions in subsections (E)(2), (E)(3) and (E)(4) of this section shall apply to any SDC credits. Consideration may be given when the improvements meet one of the following criteria:

1. There is a high economic return to the utility. A project will qualify for consideration under this criteria when the following equation is true:

$$2 \times (\text{City Participation Costs}) < \text{1st Year of Estimated Revenue from SDCs}$$

2. There is future city cost avoidance, such as installing utilities in advance of new road construction.

3. Master plan sizing is required under VMC 14.04.280(B) and the pipe size required is 12 inches or larger in diameter.

G. *Administration.* The director is authorized to establish rules and regulations consistent with this title, for the express purpose of interpretation and administration of this title.

H. *Additional Fees Permitted.* The city reserves the right to maintain, develop and impose other charges as may be found necessary for the support and improvement of the water-sewer system.

I. *System Development Charge Schedule.* The following system development charge schedule shall be used to determine the connection fees for new connections and expanded use or conversion of use:

1. *Water System Development Charge.* The system development charge for all types of use except multifamily shall be based upon the meter equivalent size of the water meter serving the premises without regard to type of use as follows:

Effective January 1, ~~2010~~ 2023

One meter equivalent size (MES)	\$ 2,360.00 <u>3,410.00</u>
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The water system development charge for each unit of a multifamily dwelling shall be 57 percent of the system development charge for a single-family dwelling.

2. *Sewer System Development Charge.* The system development charge shall be based upon equivalent dwelling units (EDU) as follows:

a. Charge per equivalent unit:

Effective January 1, ~~2010~~ 2023

One meter equivalent	\$ 2,740.00 <u>3,396.00</u>
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The sewer system development charge for each unit of a multifamily dwelling shall be 70 percent of the system development charge for a single-family dwelling.

b. Distribution of equivalent dwelling units shall be as set forth in Table 14.04.235.

Table 14.04.235.

Type of Unit	Unit	EDU Per Unit
I. Residential		
1. Single-family residential (including condominium)	Each	1.00
2. Multifamily dwelling	Each dwelling unit	0.70
3. Mobile home park	Space	1.00
4. Living group with shared kitchen and bath facilities	Bed	0.33
II. Nonresidential		
5. Hotel, motel, resort		
a. Without kitchen	Room	0.40
b. With kitchen	Room	0.60
6. Schools		
a. Day (nonresidential)		

Type of Unit	Unit	EDU Per Unit
i. Grades 13 and up (post-secondary)	25 students (FTE)	1.00
ii. Grades 9 through 12 (high)	25 students	1.00
iii. Grades K through 8 (elementary)	50 students (ADA)	1.00
b. Board (residential)	Student (ADA)	0.50
7. Churches, lodges, club houses, theaters		
a. Without kitchen facilities	100 seats	0.90
b. Kitchen facilities	Each	0.60
(added to the amount calculated for seating)		
8. Institutions		
a. Medical hospitals	Bed	1.00
b. Convalescent/rest homes	Bed	0.60
9. Restaurant, lounge, tavern		
a. Full service (indoor seating)	12 seats	1.00
b. Fast-food or tavern (indoor seats)	12 seats	1.00

Type of Unit	Unit	EDU Per Unit
c. Fast-food without seats		1.00
10. Commercial and industrial		(2)
a. Commercial and dry industrial		
b. Special commercial		
i. Laundries (commercial)		
ii. Car wash		
iii. Laundromat (self service)		
c. Service stations and garages		(3)
d. Wet industry		
11. Irrigation systems		(4)
12. Noncontact cooling water systems		(4)

Notes to system development charge schedule:

1 Restaurants, lounges or taverns located within a main commercial or industrial building shall be charged a separate SDC, in addition to the SDC for the main building.

2 Fast-food restaurants without seats (9c) and commercial and industrial uses (10a through 10c) shall be charged system development charges, based upon water meter equivalent size (MES).

3 System development charges for any wet industrial use (10d) shall be based on a separate engineering study by the director. Such study shall assess the utility's actual costs to serve the specific use, but shall not be less than if calculated as a commercial or dry industrial use (10a).

4 Irrigation meters (11) and noncontact cooling water (12) shall be charged system development charges for water only.

The fees within this subsection 14.04.235(I) shall be increased annually in accordance with VMC 03.08.100, beginning on January 1, 2024. City Council may increase fees periodically above and beyond the requirements of VMC 03.08.100 if it is deemed that the consumer price index is not keeping pace with construction cost increases or an updated rate study finds that an increase in system development charges is recommended.

J. *Determination of SDC for Other Uses.* Other establishments not defined specifically in this chapter shall be determined on a specific use basis, consistent with the criteria of this section.

K. *Combined Uses.* Developments which include a combination of two or more uses as defined in this chapter shall be charged system development charges based on the summation of SDC calculated on each separate use.

L. *System Development Charge Capital Surcharge.* In lieu of paying a sewer system development charge prior to connection as required pursuant to subsection C of this section, any new nonresidential sewer customer that uses the equivalent of 50 EDUs per month or less of capacity may apply for the option to pay a higher monthly sewer service user charge that includes a capital surcharge equivalent to the carrying cost of sewer capacity recovered through the sewer system

development charge. In calculating the applicable SDC capital surcharge, the department will generally use the methodology for sewer connection fee installment contracts described in VMC 14.04.240. The system development charge capital surcharge program is voluntary. As such no customer may remain on the program for longer than 10 years. After 10 years the sewer customer shall pay the entire SDC as originally calculated or request an extension in writing from the director. The city reserves the right to record a notice against the title for any property owner who has agreed to participate in this program. Any nonresidential customer authorized by the city to pay the sewer capital surcharge rate may elect to return to the standard sewer service user charge by paying in full the sewer system development charge at the rate in effect as of the date of the election.

SECTION 2. Savings. Those sections of any ordinances amended or repealed by this ordinance shall remain in full force and effect until the effective date of this ordinance.

SECTION 3. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

SECTION 4. Effective Date. This ordinance shall become effective as of January 1, 2023, following the date of final adoption.

Read First Time: November 14, 2022

Ayes: Councilmembers Harless, Perez, Fox, Stober, Hansen, Mayor McEnery-Ogle

Nays: None

Absent: Councilmember Paulsen

Read Second Time: November 21, 2022

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers Harless, Perez, Fox, Paulsen, Stober, Hansen, Mayor McEnery-Ogle

Nays: None

Absent: None

SIGNED this 21st day of November, 2022

DocuSigned by:
Anne McEnery-Ogle
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Anne McEnery-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
BCF6734E40E94AE...

Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:
Jonathan Young
9A7DC2E31F694A2...

Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4392

AN ORDINANCE relating to system development charges, amending Section 14.04.235 of the Vancouver Municipal Code; providing for an increase to the system development charges for the water and sewer utility, indexing annual increases of the system development charge to the appropriate Consumer Price Index; and providing clauses for savings, severability, and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).