

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2013, Legislative Day No. 35

Bill No. 66-13

Introduced by Mr. Walker, Chairman
(by request of the County Executive)

By the County Council, July 15, 2013

Introduced and first read on July 15, 2013
Public Hearing set for and held on September 3, 2013
Public Hearing on AMENDED BILL set for September 16, 2013
Bill Expires October 18, 2013

By Order: Elizabeth E. Jones, Administrative Officer

A BILL ENTITLED

- 1 AN ORDINANCE concerning: Public Works – Utilities – Capital facility connection
2 charge and capital facility connection deferral fee
3
4 FOR the purpose of establishing certain annual installment payments of the capital
5 facility connection charge and the capital facility deferral fee; establishing a ~~one~~ two
6 year extension option for the payment of the capital facility connection charge and the
7 capital facility deferral fee in certain situations; providing for interest on certain late
8 payments of the capital facility connection charge and the capital facility deferral fee;
9 making a certain technical change; providing for the applicability of this Ordinance;
10 providing for the retroactive application of this Ordinance in certain situations;
11 providing for the termination date of certain changes enacted by this Ordinance; and
12 generally relating to the capital facility connection charge and the capital facility
13 deferral fee.
14
15 BY repealing and reenacting, with amendments: §§ 13-5-403(b), (c), and (d); and 13-5-
16 405(a)
17 Anne Arundel County Code (2005, as amended)
18
19 BY renumbering: § 13-5-403(e) to be § 13-5-403(f)
20 Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
Underlining indicates amendments to bill.
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 BY repealing and reenacting, with amendments and renumbering: § 13-5-403(f)
2 Anne Arundel County Code (2005, as amended)

3
4 BY adding: § 13-5-403(e)
5 Anne Arundel County Code (2005, as amended)

6
7 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
8 *Maryland, That § 13-5-403(e) of the Anne Arundel County Code (2005, as amended) is*
9 *hereby renumbered to be § 13-5-403(f).*

10
11 SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County
12 Code (2005, as amended) read as follows:

13
14 **ARTICLE 13 PUBLIC WORKS**

15
16 **TITLE 5. UTILITIES**

17
18 **13-5-403. Charges and fees for property subject to adequate public facilities.**

19
20 (b) **Properties not on the waiting list.** For a property that is not on the waiting list
21 provided for in § 17-5-503 of this Code:

22
23 (1) the allocation reservation charge shall be paid as follows:

24
25 (i) quarterly from the date of allocation until the lot is connected to the
26 County's water or wastewater system; or

27
28 (ii) at the option of the property owner:

29
30 1. one-half of the 40% paid per quarter and one-half of the 40% deferred
31 per quarter until the fifth anniversary of allocation or connection, whichever occurs first;

32
33 2. on the fifth anniversary of allocation or connection, whichever occurs
34 first, a lump sum consisting of the one-half of the 40% deferred per quarter plus interest
35 at a rate of 8% per annum on the deferred amounts; and

36
37 3. after the fifth anniversary of the allocation, if the property is not
38 connected, 40% per quarter; and

39
40 (2) except as provided in subsection (d) OR (E), the capital facility connection
41 deferral fee and the capital facility connection charge shall be paid in full within the
42 earlier of [five years after] THE LAST DAY OF THE MONTH OF THE FIFTH ANNIVERSARY
43 OF the date of allocation or with a building permit.

44
45 (c) **Properties on the waiting list.** For a property that is on the waiting list provided
46 for in § 17-5-503 of this Code:

47
48 (1) the allocation reservation charge shall be paid as follows:

1 (i) quarterly from the date the property is removed from the waiting list until
2 the lot is connected to the County's water or wastewater system; or

3
4 (ii) at the option of the property owner:

5
6 1. one-half of the 40% paid per quarter and one-half of the 40% deferred
7 per quarter until the fifth anniversary of removal from the waiting list or connection,
8 whichever occurs first;

9
10 2. on the fifth anniversary of removal from the waiting list or connection,
11 whichever occurs first, a lump sum consisting of the one-half of the 40% deferred per
12 quarter plus interest at a rate of 8% per annum on the deferred amounts; and

13
14 3. after the fifth anniversary of removal from the waiting list, if the
15 property is not connected, 40% per quarter; and

16
17 (2) except as provided in subsection (d) OR (E), the capital facility connection
18 deferral fee and the capital facility connection charge shall be paid in full within the
19 earlier of [five years after] THE LAST DAY OF THE MONTH OF THE FIFTH ANNIVERSARY
20 OF the date the property is removed from the waiting list or with a building permit.

21
22 **(d) Annual installments.**

23
24 (1) [(i) If the capital facility connection deferral fee or the capital facility
25 connection charge is in arrears as of April 27, 2009, the capital facility connection
26 deferral fee, the capital facility connection charge, and any interest and penalties provided
27 for in subsection (f) may be paid in three annual installments.

28
29 (ii) If the capital facility connection deferral fee or the capital facility
30 connection charge is not in arrears as of April 27, 2009, the] THE capital facility
31 connection deferral fee and the capital facility connection charge may be paid in [three]
32 FIVE annual installments. Any interest and penalties provided for in subsection [(f)] (G)
33 shall be paid in full with the first installment.

34
35 (2) For properties not on the waiting list, the first payment shall be due [five years
36 from] ON THE LAST DAY OF THE MONTH OF THE FIFTH ANNIVERSARY OF THE allocation.
37 Each subsequent payment shall be due on the LAST DAY OF THE MONTH OF THE
38 anniversary of the allocation. The annual payments shall be subject to an annual
39 percentage rate of 8% of the outstanding balance as of the payment due date[. Interest on
40 the installments begins to accrue five years after the date of allocation and is] , in addition
41 to any interest provided for in subsection [(f)] (G).

42
43 (3) For properties on the waiting list, the first payment shall be due [five years
44 after] ON THE LAST DAY OF THE MONTH OF THE FIFTH ANNIVERSARY OF the DATE THE
45 property is removed from the waiting list. Each subsequent payment shall be due on the
46 LAST DAY OF THE MONTH OF THE anniversary of removal from the waiting list. The
47 annual payments shall be subject to an annual percentage rate of 8% of the outstanding

1 balance as of the payment due date[. Interest on the installments begins to accrue five
2 years after the property is removed from the waiting list and is] , in addition to any
3 interest provided for in subsection [(f)] (G).

4
5 (4) Each annual payment after the first payment shall be in the amount of the
6 number of units of allocation remaining times the rates for the capital facility connection
7 deferral fee and capital facility connection charge in effect at the time the payment is due,
8 less the amounts previously paid by installment, divided by the number of years of
9 payments remaining, plus the interest calculated as provided herein.

10
11 (5) Building permits issued during the [three] FIVE years of installment payments
12 will be assessed the capital facility connection deferral fee and capital facility connection
13 charge in effect at the time the building permit is issued, OR IF LESS, THE REMAINING
14 BALANCE OF THE CAPITAL FACILITY DEFERRAL FEE AND CAPITAL FACILITY
15 CONNECTION CHARGES DUE UNDER THIS SUBSECTION.

16
17 (E) ~~One~~ Two year extension option.

18
19 (1) AT THE REQUEST OF THE PROPERTY OWNER AND DEVELOPER, RATHER THAN
20 PAYING THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND THE CAPITAL
21 FACILITY CONNECTION CHARGE WHEN DUE IN ACCORDANCE WITH SUBSECTION (B)(2)
22 OR (C)(2) OR IN ANNUAL INSTALLMENTS IN ACCORDANCE WITH SUBSECTION (D), THE
23 PAYMENT DUE DATE IN SUBSECTION (B)(2) OR (C)(2) MAY BE EXTENDED BY ~~ONE YEAR~~
24 TWO YEARS. A REQUEST TO EXTEND THE PAYMENT DUE DATE SHALL BE MADE NO
25 LATER THAN 30 DAYS AFTER THE DATE OF A NOTICE OF DEFAULT AND LAPSE OF
26 ALLOCATION AND THE PROPERTY OWNER AND DEVELOPER SHALL ENTER INTO A
27 PAYMENT EXTENSION AGREEMENT WITH THE COUNTY NO LATER THAN 60 DAYS AFTER
28 THE DATE OF THE NOTICE OF DEFAULT AND LAPSE OF ALLOCATION, OR THE PAYMENT
29 MAY NOT BE EXTENDED. ANY INTEREST AND PENALTIES PROVIDED FOR IN SUBSECTION
30 (G) SHALL BE PAID IN FULL UPON EXECUTION OF A PAYMENT EXTENSION AGREEMENT.
31 NO MORE THAN ONE PAYMENT EXTENSION PER PROPERTY MAY BE MADE UNDER THIS
32 SECTION, AND AFTER A PAYMENT EXTENSION AGREEMENT IS EXECUTED, THE CAPITAL
33 FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY CONNECTION CHARGE
34 MAY NOT BE PAID IN ANNUAL INSTALLMENTS IN ACCORDANCE WITH SUBSECTION (D).

35
36 (2) FOR PROPERTIES NOT ON THE WAITING LIST THAT HAVE A PAYMENT
37 EXTENSION AGREEMENT IN ACCORDANCE WITH THIS SUBSECTION, THE CAPITAL
38 FACILITY CONNECTION DEFERRAL FEE AND THE CAPITAL FACILITY CONNECTION
39 CHARGE SHALL BE DUE NO LATER THAN THE LAST DAY OF THE MONTH OF THE ~~SIXTH~~
40 SEVENTH ANNIVERSARY OF THE ALLOCATION. INTEREST IN THE AMOUNT OF ONE
41 PERCENT PER MONTH BEGINS TO ACCRUE ON THE LAST DAY OF THE MONTH OF THE
42 FIFTH ANNIVERSARY OF THE DATE OF ALLOCATION AND IS IN ADDITION TO ANY
43 INTEREST PROVIDED FOR IN SUBSECTION (G).

44
45 (3) FOR PROPERTIES ON THE WAITING LIST THAT HAVE A PAYMENT EXTENSION
46 AGREEMENT IN ACCORDANCE WITH THIS SUBSECTION, THE CAPITAL FACILITY
47 CONNECTION DEFERRAL FEE AND THE CAPITAL FACILITY CONNECTION CHARGE SHALL
48 BE DUE NO LATER THAN THE LAST DAY OF THE MONTH OF THE ~~SIXTH~~ SEVENTH
49 ANNIVERSARY OF THE DATE THE PROPERTY IS REMOVED FROM THE WAITING LIST.
50 INTEREST IN THE AMOUNT OF ONE PERCENT PER MONTH BEGINS TO ACCRUE ON THE
51 LAST DAY OF THE MONTH OF THE FIFTH ANNIVERSARY OF THE DATE THE PROPERTY IS
52 REMOVED FROM THE WAITING LIST AND IS IN ADDITION TO ANY INTEREST PROVIDED
53 FOR IN SUBSECTION (G).

1 (4) BUILDING PERMITS ISSUED DURING ANY PAYMENT EXTENSION PERIOD WILL
2 BE ASSESSED THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL
3 FACILITY CONNECTION CHARGE IN EFFECT AT THE TIME THE BUILDING PERMIT IS
4 ISSUED, OR IF LESS, THE REMAINING BALANCE OF THE CAPITAL FACILITY DEFERRAL FEE
5 AND CAPITAL FACILITY CONNECTION CHARGES DUE UNDER THIS SUBSECTION.
6

7 [(f)] (G) **Penalty; default.**
8

9 (1) If an allocation reservation charge is not paid within 30 days after the date of
10 billing, a penalty charge equal to 10% of the amount due is owed.
11

12 (2) IF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE, CAPITAL FACILITY
13 CONNECTION CHARGE, OR ANY ANNUAL INSTALLMENT PAYMENT OF THE CAPITAL
14 FACILITY CONNECTION DEFERRAL FEE OR THE CAPITAL FACILITY CONNECTION CHARGE
15 IS NOT PAID BY THE DUE DATE, INTEREST ON THE OUTSTANDING BALANCE IN THE
16 AMOUNT OF ONE PERCENT PER MONTH SHALL ACCRUE.
17

18 [(2)] (3) A default occurs if any fee or charge set forth in this section in an amount
19 of \$250 or more is not paid when required and remains unpaid 90 days after a notice of
20 default and lapse of allocation is sent to the property owner.
21

22 [(3)] (4) Upon default, the allocation lapses and the amount set forth in § 13-5-
23 405(b) becomes due. A record of the default and lapse of allocation shall be sent to the
24 property owner and to the Office of Planning and Zoning, where the record shall be
25 maintained and available to the public.
26

27 **13-5-405. Lapse.**
28

29 (a) **Lapse by operation of law.** An allocation lapses by operation of law if:
30

31 (1) any development application for which the County has granted an allocation
32 becomes void, expires, or is revoked;
33

34 (2) there is a default on the requirement to pay fees and charges as described in [§
35 13-5-403(f)(2)] § 13-5-403(G)(3); or
36

37 (3) the property is sold at tax sale.
38

39 SECTION 3. *And be it further enacted,* That this Ordinance shall be construed to
40 apply retroactively to any property with either an outstanding bill for capital facility
41 connection deferral fees and capital facility connection charges or a notice of default and
42 lapse of allocation issued in accordance with § 13-5-405 (f)(2) of the Anne Arundel
43 County Code (2005 Code, as amended), if either was issued prior to July 15, 2013 or any
44 time before the effective date of this Bill, except that this Ordinance shall not apply to
45 any allocations that lapsed in accordance with § 13-5-405 of the Anne Arundel County
46 Code (2005 Code, as amended) prior to July 15, 2013.
47

48 SECTION 4. *And be it further enacted,* That for any property with either an
49 outstanding bill for capital facility connection deferral fees and capital facility connection

1 charges or a notice of default and lapse of allocation issued in accordance with § 13-5-
2 405 (f)(2) of the Anne Arundel County Code (2005 Code, as amended), if either was
3 issued prior to July 15, 2013 or any time before the effective date of this Bill, the lapse of
4 allocation date shall be extended to 60 days after the effective date of this Ordinance, and
5 prior to the lapse of allocation date, the property owner and developer may opt to
6 continue with ~~an annual installment option if the same has previously been initiated in~~
7 ~~accordance with § 13-5-403(d) of the Anne Arundel County Code (2005, as amended), or~~
8 ~~if the annual installment option has not previously been initiated, the property owner and~~
9 ~~developer may opt for~~ or initiate the annual installment option in accordance with § 13-
10 5-403 (d) as enacted by Section 2 of this Ordinance or ~~to~~ extend the payment date of the
11 capital facility deferral fee and capital facility connection charge for ~~one year~~ two years
12 in accordance with § 13-5-403(e) as enacted by Section 2 of this Ordinance or in
13 accordance with Section 6 if any previous installment payments have been made by
14 making a request to extend the payment due date at least 30 days before effective date of
15 this Ordinance and by entering into a payment extension agreement with the County as
16 required by § 13-5-403(e)(1) of the Anne Arundel County Code as enacted by Section 2
17 of this Ordinance no later than 30 days after the effective date of this Ordinance.

18
19 SECTION 5. *And be it further enacted*, That if a request for extension is made in
20 accordance with § 13-5-403(e) of the Anne Arundel County Code as enacted by Section 2
21 or in accordance with Section 4 or 6 of this Ordinance, and the capital facility connection
22 deferral fee or the capital facility connection charge is in arrears at the time a request for
23 extension is made, all late interest and penalties shall be paid prior to a payment
24 extension agreement being executed.

25
26 SECTION 6. *And be it further enacted*, That upon the effective date of this
27 Ordinance, for any property that has an annual installment plan in accordance with § 13-
28 5-403(d) of the Anne Arundel County Code (2005 Code, as amended) that was entered
29 prior to the effective date of this Ordinance, the annual installments will automatically be
30 extended in accordance with § 13-5-403(d) of the Anne Arundel County Code, as enacted
31 by Section 2 of this Ordinance, except that a property owner and developer may opt to
32 extend the due date of the remaining balance of the capital facility connection deferral
33 fees and capital facility connection charges for two years by making a request to extend
34 at least 30 days before the effective date of this Ordinance and by entering into a payment
35 extension agreement with the County as required by § 13-5-403(e)(1) of the Anne
36 Arundel County Code as enacted by Section 2 of this Ordinance no later than 30 days
37 after the effective date of this Ordinance. If a property owner and developer enter into a
38 payment extension agreement with the County to extend the due date of the remaining
39 balance of the capital facility connection deferral fees and capital facility connection
40 charges for two years in accordance with this Section, interest will accrue in accordance
41 with § 13-5-403(e) of the Anne Arundel County Code as enacted by Section 2 of this
42 Ordinance and the remaining balance of the capital facility connection deferral fees and
43 capital facility connection charges will be due in full, along with all interest and penalties,
44 on the last day of the month of the two year anniversary of the request to extend the
45 payment due date.

46
47 SECTION 7. *And be it further enacted*, That the provisions of this Ordinance shall
48 remain in effect until April 27, 2017, after which all changes except those to Subsection

1 13-5-403(g)(2) of the Anne Arundel County Code as enacted by Section 2 of this
2 Ordinance shall stand repealed and be of no further force and effect, except for capital
3 facility connection deferral fees and capital facility connection charges that are being paid
4 in annual installments or extended for ~~one year~~ two years under the provisions of Section
5 2 of this Ordinance, and except that capital facility deferral fees or capital facility
6 connection charges for an allocation granted on or before the repeal date may be paid in
7 annual installments or extended for ~~one year~~ two years under the provisions of Section 2
8 of this Ordinance.

9
10 SECTION 8. *And be it further enacted,* That this Ordinance shall take effect 45 days
11 from the date it becomes law.