

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2009, Legislative Day No. 4

Bill No. 4-09

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

By the County Council, February 17, 2009

Introduced and first read on February 17, 2009
Public Hearing set for and held on March 16, 2009
Public Hearing on AMENDED BILL set for April 6, 2009
Public Hearing on SECOND AMENDED BILL set for April 20, 2009
Bill Expires May 23, 2009

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN EMERGENCY ORDINANCE concerning: Public Works – Capital facility
2 connection charge and capital facility connection deferral fee
3
4 FOR the purpose of changing the capital facility connection deferral fee; establishing
5 certain annual installment payments of the capital facility connection charge and the
6 capital facility connection deferral fee; providing procedures for their
7 implementation; providing for certain interest charges in certain circumstances;
8 providing for certain exceptions in certain circumstances; providing for certain fees
9 for certain building permits; making certain changes to certain payments required by
10 an owner when an allocation is reduced before payment of the capital facility
11 connection under certain circumstances; generally providing that the owner shall pay
12 any unpaid allocation reservation charges under certain circumstances; generally
13 relating to the capital facility connection charge and the capital facility connection
14 deferral fee; providing for the applicability of this Ordinance; providing for the
15 termination date of certain changes enacted by this Ordinance; and making this
16 Ordinance an emergency measure.
17
18 BY repealing and reenacting, with amendments: § 13-5-403
19 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 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
2 *Maryland, That Section(s) of the Anne Arundel County Code (2005, as amended) read as*
3 *follows:*

4
5 **ARTICLE 13 PUBLIC WORKS**

6
7 **TITLE 5. UTILITIES**

8
9 **13-5-403. Charges and fees for property subject to adequate public facilities.**

10
11 (a) **Fees and charges.** For property receiving an allocation in conjunction with
12 approval by the Office of Planning and Zoning for adequacy of public facilities, the
13 owner of the property shall pay, for each equivalent dwelling unit:

14
15 (1) an allocation reservation charge equal to 40% of the average cost of water and
16 wastewater, as computed by the Department of Public Works, that would be used if the
17 development on the property were complete and the property was receiving water or
18 wastewater service from the County;

19
20 (2) a capital facility connection deferral fee of [\$120 for water and \$80 for
21 wastewater] 8% OF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE IN EFFECT WHEN THE
22 CAPITAL FACILITY CONNECTION DEFERRAL FEE IS PAID; and

23
24 (3) the capital facility connection charge established in §§ 13-5-813 and 13-5-814
25 subject to any exemption contained in those sections.

26
27 (b) **Properties not on the waiting list.** For a property that is not on the waiting list
28 provided for in § 17-5-503 of this Code:

29
30 (1) the allocation reservation charge shall be paid AS FOLLOWS:

31
32 (I) quarterly from the date of allocation until the lot is connected to the
33 County's water or wastewater system; [and] OR

34
35 (II) AT THE OPTION OF THE PROPERTY OWNER:

36
37 1. ONE-HALF OF THE 40% PAID PER QUARTER AND ONE-HALF OF THE 40%
38 DEFERRED PER QUARTER UNTIL THE FIFTH ANNIVERSARY OF ALLOCATION OR
39 CONNECTION, WHICHEVER OCCURS FIRST;

40
41 2. ON THE FIFTH ANNIVERSARY OF ALLOCATION OR CONNECTION,
42 WHICHEVER OCCURS FIRST, A LUMP SUM CONSISTING OF THE ONE-HALF OF THE 40%
43 DEFERRED PER QUARTER PLUS INTEREST AT A RATE OF 8% PER ANNUM ON THE
44 DEFERRED AMOUNTS; AND

45
46 3. AFTER THE FIFTH ANNIVERSARY OF THE ALLOCATION, IF THE
47 PROPERTY IS NOT CONNECTED, 40% PAID PER QUARTER; AND

48
49 (2) EXCEPT AS PROVIDED IN SUBSECTION (D), the capital facility connection
50 deferral fee and the capital facility connection charge shall be paid in full within the

1 earlier of [three] FIVE years after the date of allocation or with a building permit; ~~AND~~.

2
3 ~~(3) ANY CAPITAL FACILITY CONNECTION DEFERRAL FEE OR CAPITAL FACILITY~~
4 ~~CONNECTION CHARGE NOT PAID WITHIN THE TIME SET FORTH IN PARAGRAPH (2) SHALL~~
5 ~~INCUR INTEREST AT THE RATE OF 8% PER ANNUM ON THE UNPAID BALANCE UNTIL PAID~~
6 ~~IN FULL OR UNTIL THE FIRST INSTALLMENT PAYMENT IS MADE UNDER SUBSECTION (D).~~

7
8 **(c) Properties on the waiting list.** For a property that is on the waiting list provided
9 for in § 17-5-503 of this Code:

10
11 (1) the allocation reservation charge shall be paid AS FOLLOWS:

12
13 (I) quarterly from the date the property is removed from the waiting list until
14 the lot is connected to the County's water or wastewater system; [and] OR

15
16 (II) AT THE OPTION OF THE PROPERTY OWNER:

17
18 1. ONE-HALF OF THE 40% PAID PER QUARTER AND ONE-HALF OF THE 40%
19 DEFERRED PER QUARTER UNTIL THE FIFTH ANNIVERSARY OF REMOVAL FROM THE
20 WAITING LIST OR CONNECTION, WHICHEVER OCCURS FIRST;

21
22 2. ON THE FIFTH ANNIVERSARY OF REMOVAL FROM THE WAITING LIST OR
23 CONNECTION, WHICHEVER OCCURS FIRST, A LUMP SUM CONSISTING OF THE ONE-HALF
24 OF THE 40% DEFERRED PER QUARTER PLUS INTEREST AT A RATE OF 8% PER ANNUM ON
25 THE DEFERRED AMOUNTS; AND

26
27 3. AFTER THE FIFTH ANNIVERSARY OF REMOVAL FROM THE WAITING
28 LIST, IF THE PROPERTY IS NOT CONNECTED, 40% PAID PER QUARTER; AND

29
30 (2) EXCEPT AS PROVIDED IN SUBSECTION (D), the capital facility connection
31 deferral fee and the capital facility connection charge shall be paid in full within the
32 earlier of [three] FIVE years after the date the property is removed from the waiting list or
33 with a building permit; ~~AND~~.

34
35 ~~(3) ANY CAPITAL FACILITY CONNECTION DEFERRAL FEE OR CAPITAL FACILITY~~
36 ~~CONNECTION CHARGE NOT PAID WITHIN THE TIME SET FORTH IN PARAGRAPH (2) SHALL~~
37 ~~INCUR INTEREST AT THE RATE OF 8% PER ANNUM ON THE UNPAID BALANCE UNTIL PAID~~
38 ~~IN FULL OR UNTIL THE FIRST INSTALLMENT PAYMENT IS MADE UNDER SUBSECTION (D).~~

39
40 **(D) Annual installments.**

41
42 (1) (I) IF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE OR THE CAPITAL
43 FACILITY CONNECTION CHARGE IS IN ARREARS AS OF THE EFFECTIVE DATE OF BILL 4-09,
44 THE CAPITAL FACILITY CONNECTION DEFERRAL FEE, ~~AND~~ THE CAPITAL FACILITY
45 CONNECTION CHARGE, AND ANY INTEREST AND PENALTIES PROVIDED FOR IN
46 SUBSECTION (F) MAY BE PAID IN ~~FIVE~~ THREE ANNUAL INSTALLMENTS.

47
48 (II) IF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE OR THE CAPITAL
49 FACILITY CONNECTION CHARGE IS NOT IN ARREARS AS OF THE EFFECTIVE DATE OF BILL
50 4-09, THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND THE CAPITAL FACILITY
51 CONNECTION CHARGE MAY BE PAID IN ~~FIVE~~ THREE ANNUAL INSTALLMENTS. ANY
52 INTEREST AND PENALTIES PROVIDED FOR IN SUBSECTION (F) SHALL BE PAID IN FULL
53 WITH THE FIRST INSTALLMENT.

54

1 (2) FOR PROPERTIES NOT ON THE WAITING LIST, THE FIRST PAYMENT SHALL BE
2 DUE ~~THREE~~ FIVE YEARS FROM ALLOCATION. EACH SUBSEQUENT PAYMENT SHALL BE
3 DUE ON THE ANNIVERSARY OF THE ALLOCATION. THE ANNUAL PAYMENTS SHALL BE
4 SUBJECT TO AN ANNUAL PERCENTAGE RATE OF 8% OF THE OUTSTANDING BALANCE AS
5 OF THE PAYMENT DUE DATE. INTEREST ON THE INSTALLMENTS BEGINS TO ACCRUE
6 ~~THREE FIVE~~ YEARS AFTER THE DATE OF ALLOCATION AND IS IN ADDITION TO ~~THE ANY~~
7 INTEREST PROVIDED FOR IN ~~SUBSECTIONS (B)(3), (C)(3), AND (D)(5)~~ SUBSECTION (F).

8
9 (3) FOR PROPERTIES ON THE WAITING LIST, THE FIRST PAYMENT SHALL BE DUE
10 ~~THREE FIVE~~ YEARS AFTER THE PROPERTY IS REMOVED FROM THE WAITING LIST. EACH
11 SUBSEQUENT PAYMENT SHALL BE DUE ON THE ANNIVERSARY OF REMOVAL FROM THE
12 WAITING LIST. THE ANNUAL PAYMENTS SHALL BE SUBJECT TO AN ANNUAL
13 PERCENTAGE RATE OF 8% OF THE OUTSTANDING BALANCE AS OF THE PAYMENT DUE
14 DATE. INTEREST ON THE INSTALLMENTS BEGINS TO ACCRUE ~~THREE FIVE~~ YEARS AFTER
15 THE PROPERTY IS REMOVED FROM THE WAITING LIST AND IS IN ADDITION TO ~~THE ANY~~
16 INTEREST PROVIDED FOR IN ~~SUBSECTIONS (B)(3), (C)(3), AND (D)(5)~~ SUBSECTION (F).

17
18 (4) EACH ANNUAL PAYMENT AFTER THE FIRST PAYMENT SHALL BE IN THE
19 AMOUNT OF THE NUMBER OF UNITS OF ALLOCATION REMAINING TIMES THE RATES FOR
20 THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY
21 CONNECTION CHARGE IN EFFECT AT THE TIME THE PAYMENT IS DUE, LESS THE
22 AMOUNTS PREVIOUSLY PAID BY INSTALLMENT, DIVIDED BY THE NUMBER OF YEARS OF
23 PAYMENTS REMAINING, PLUS THE INTEREST CALCULATED AS PROVIDED HEREIN.

24
25 ~~(5) ANY INSTALLMENT PAYMENT NOT MADE TIMELY UNDER THIS SUBSECTION~~
26 ~~SHALL INCUR INTEREST AT THE RATE OF 8% PER ANNUM ON THE UNPAID BALANCE OF~~
27 ~~THE INSTALLMENT PAYMENT DUE FROM THE DUE DATE UNTIL THE PAYMENT IS MADE.~~

28
29 ~~(6)~~ (5) BUILDING PERMITS ISSUED DURING THE ~~FIVE~~ THREE YEARS OF
30 INSTALLMENT PAYMENTS WILL BE ASSESSED THE CAPITAL FACILITY CONNECTION
31 DEFERRAL FEE AND CAPITAL FACILITY CONNECTION CHARGE IN EFFECT AT THE TIME
32 THE BUILDING PERMIT IS ISSUED.

33
34 **[(d)](E) Additional charges and refunds.**

35
36 (1) If payment of the capital facility connection charge is made before application
37 for a building permit, an additional capital facility connection charge shall be paid with a
38 building permit only if the number of equivalent dwelling units determined during
39 building permit review exceeds the number of equivalent dwelling units determined at the
40 time of the prior payment.

41
42 (2) If an allocation is reduced after payment of the capital facility connection
43 charge because of a recalculation of the allocation required to serve the property, the
44 owner may obtain a refund of 95% of the difference between the capital facility
45 connection charge paid and the amount of the charge due as a result of the recalculation.
46 THE OWNER SHALL PAY ANY UNPAID ALLOCATION RESERVATION CHARGES.

47
48 (3) If an allocation is reduced before payment of the capital facility connection
49 charge because of a recalculation of the allocation required to serve the property, the
50 owner shall pay:

51
52 (I) a capital facility reservation fee in the amount of 5% of the capital facility
53 connection charge that would have been due for each equivalent dwelling unit by which
54 the allocation is reduced[.];

1
2 (II) [All] ALL allocation reservation charges [that have been paid are forfeited];
3 AND

4
5 (III) ALL CAPITAL FACILITY CONNECTION DEFERRAL FEES THAT WOULD
6 HAVE BEEN DUE FOR EACH EQUIVALENT DWELLING UNIT BY WHICH THE ALLOCATION
7 IS REDUCED.

8
9 [(e)](F)**Penalty; default.**

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

13
14 (2) If any fee or charge set forth in this section is not paid as required, the unpaid
15 balance becomes immediately due and payable and shall be collected as provided in § 1-
16 9-101 of this Code. On institution of a foreclosure action or on sale of the property at tax
17 sale, the unpaid balance of any fee or charge becomes due and payable.

18
19 ~~SECTION 2. *And be it further enacted, That subsections (b)(3) and (c)(3) of this*~~
20 ~~*Ordinance shall apply only to fees and charges that are not in arrears as of the effective*~~
21 ~~*date of this Ordinance, and that fees and charges that are in arrears as of the date of this*~~
22 ~~*Ordinance shall continue be subject to interest in accordance with § 1-9-101 of the Anne*~~
23 ~~*Arundel County Code (2005, as amended).*~~

24
25 SECTION 2. *And be it further enacted That all references in this Ordinance to “the*
26 *effective date of Bill No. 4-09”, or words to that effect, shall, upon codification, be*
27 *replaced with the actual date on which this Ordinance takes effect under Section 307 of*
28 *the County Charter as certified by the Administrative Officer to the County Council.*

29
30 SECTION 3. *And be it further enacted, That the provisions of this Ordinance shall*
31 *remain in effect for five years from the date this Ordinance becomes effective, after*
32 *which it all changes except for those to Subsections 13-5-403(a)(2), (e)(2), and (e)(3)*
33 *shall stand repealed and be of no further force and effect, except for allocation*
34 *reservation charges, capital facility connection deferral fees, and capital facility*
35 *connection charges that are deferred or are being paid in annual installments under the*
36 *provisions of Section 1 of this Ordinance.*

37
38 SECTION 4. *And be it further enacted, That this Ordinance is hereby declared to be*
39 *an emergency ordinance and necessary for the immediate preservation of the public*
40 *peace, health, safety, welfare, and property and being passed by the affirmative vote of*
41 *five members of the County Council, the same shall take effect from the date it becomes*
42 *law.*