

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2011, Legislative Day No. 3

Bill No. 5-11

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

By the County Council, February 7, 2011

Introduced and first read on February 7, 2011
Public Hearing set for and held on March 7, 2011
Public Hearing on AMENDED BILL set for March 21, 2011
Bill Expires May 13, 2011

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Utilities - Allocation of Water and Wastewater Capacity -
2 Lapse for Nonpayment of Fees and Charges

3
4 FOR the purpose of providing for the lapse of an allocation of water or wastewater capacity
5 in the event of a default in the obligation to pay the fees and charges for that allocation;
6 requiring notice of default and lapse; providing that certain fees and charges become due
7 upon all lapses of allocations by operation of law; providing for revocation of approval
8 of adequacy of public facilities upon lapse; authorizing and prohibiting certain actions
9 upon revocation of approval of adequacy of public facilities; clarifying the application of
10 this Ordinance; enacting a transitional provision for the June 2011 tax sale and requiring
11 notice of that transitional provision; and generally relating to lapses in allocations of
12 water and wastewater capacity.

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14 BY repealing and reenacting, with amendments: §§ 13-5-403(f); and 13-5-405
15 Anne Arundel County Code (2005, as amended)

16
17 BY adding: § 17-5-202(d)
18 Anne Arundel County Code (2005, as amended)

19
20 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
21 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

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
2 **ARTICLE 13 PUBLIC WORKS**

3
4 **TITLE 5. UTILITIES**

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6 **13-5-403. Charges and fees for property subject to adequate public facilities.**

7
8 **(f) Penalty; default.**

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

12
13 (2) [If] A DEFAULT OCCURS IF any fee or charge set forth in this section is not paid
14 [as] WHEN required AND REMAINS UNPAID 90 DAYS AFTER A NOTICE OF DEFAULT AND
15 LAPSE OF ALLOCATION IS SENT TO THE PROPERTY OWNER [, the unpaid balance becomes
16 immediately due and payable and shall be collected as provided in § 1-9-101 of this Code.
17 On institution of a foreclosure action or on sale of the property at tax sale, the unpaid balance
18 of any fee or charge becomes due and payable].

19
20 (3) UPON DEFAULT, THE ALLOCATION LAPSES AND THE AMOUNT SET FORTH IN § 13-5-
21 405 (B) BECOMES DUE. A RECORD OF THE DEFAULT AND LAPSE OF ALLOCATION SHALL BE
22 SENT TO THE PROPERTY OWNER AND TO THE OFFICE OF PLANNING AND ZONING, WHERE
23 THE RECORD SHALL BE MAINTAINED AND AVAILABLE TO THE PUBLIC.

24
25 **13-5-405. Lapse.**

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27 **(a) Lapse by operation of law.** An allocation lapses by operation of law if: [an
28 application for subdivision becomes void, if a site development plan expires, or if a building
29 permit is revoked or becomes void.]

30
31 (1) ANY DEVELOPMENT APPLICATION FOR WHICH THE COUNTY HAS GRANTED AN
32 ALLOCATION BECOMES VOID, EXPIRES, OR IS REVOKED;

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34 (2) THERE IS A DEFAULT ON THE REQUIREMENT TO PAY FEES AND CHARGES AS
35 DESCRIBED IN § 13-5-403(F)(2); OR

36
37 (3) THE PROPERTY IS SOLD AT TAX SALE.

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39 **(b) Amount due upon lapse; collection.** If an allocation lapses BY OPERATION OF LAW,
40 [a capital facility reservation fee in an amount equal to 5% of the capital facility connection
41 charge becomes due,] all allocation reservation charges that have been paid are forfeited [,
42 any unpaid allocation reservation charges become due, and the capital facility connection
43 deferral fee becomes due.] AND THE FOLLOWING FEES AND CHARGES, ALONG WITH ANY
44 INTEREST THAT HAS ACCRUED ON THE FEES AND CHARGES, IMMEDIATELY BECOME DUE
45 AND PAYABLE AND SHALL BE COLLECTED AS PROVIDED IN § 1-9-101 OF THIS CODE:

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47 (1) ANY UNPAID ALLOCATION RESERVATION CHARGES, INCLUDING DEFERRED
48 ALLOCATION RESERVATION CHARGES;

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50 (2) A CAPITAL FACILITY RESERVATION FEE IN AN AMOUNT EQUAL TO 5% OF THE
51 CAPITAL FACILITY CONNECTION CHARGE; AND

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(3) THE CAPITAL FACILITY CONNECTION DEFERRAL FEE.

(C) ~~Proration of amount due upon lapse. No lapse to extent fees and charges paid.~~
NO PART OF AN ALLOCATION FOR WHICH ALL FEES AND CHARGES HAVE BEEN PAID AND WHICH HAS BEEN USED FOR CONNECTION TO THE COUNTY'S WATER OR WASTEWATER SYSTEM SHALL LAPSE UNDER THIS SECTION, AND THE AMOUNT DUE UNDER SUBSECTION (B) SHALL BE PRORATED BASED ON THE PERCENTAGE OF THE ALLOCATION FOR WHICH ALL FEES AND CHARGES HAVE BEEN PAID AND THAT HAS BEEN USED FOR CONNECTION TO THE COUNTY'S WATER OR WASTEWATER SYSTEM.

(D) **Restoration of allocation.** AN ALLOCATION THAT LAPSES BY OPERATION OF LAW UNDER SUBSECTION (A)(2) BECAUSE OF A DEFAULT ON THE REQUIREMENT TO PAY FEES AND CHARGES MAY BE RESTORED IF:

(1) THE WATER OR WASTEWATER CAPACITY HAS NOT BEEN REALLOCATED; AND

(2) ALL FEES AND CHARGES SET FORTH IN § 13-5-403 ALONG WITH ANY INTEREST AND PENALTIES THAT HAVE ACCRUED ON THE FEES AND CHARGES ARE PAID NO LATER THAN THIRTY DAYS BEFORE THE DATE THAT THE PROPERTY IS TO BE SOLD AT TAX SALE, WITH ALL FEES AND CHARGES CALCULATED TO AND BASED ON THE RATES IN EFFECT ON THE DATE OF PAYMENT AS IF NO LAPSE IN ALLOCATION HAD OCCURRED.

ARTICLE 17 SUBDIVISION AND DEVELOPMENT

TITLE 5. ADEQUATE PUBLIC FACILITIES

17-5-202. Testing; approval.

(d) **Revocation of approval – Adequate Sewerage or Water Supply Facilities.**

(1) APPROVAL FOR ADEQUACY OF SEWERAGE FACILITIES OR WATER SUPPLY FACILITIES IS REVOKED BY OPERATION OF LAW IF THE ALLOCATION OF THE CAPACITY ON WHICH SUCH ADEQUACY WAS BASED LAPSES IN ACCORDANCE WITH § 13-5-405 OF THIS CODE.

(2) REVOCATION UNDER THIS SUBSECTION SHALL CAUSE A PROPOSED SUBDIVISION PLAN TO BE VOID, BUT DOES NOT AFFECT THE LEGALITY OF A SUBDIVISION OF LAND FOR WHICH THE RECORD PLAT WAS RECORDED IN THE LAND RECORDS AT THE TIME OF REVOCATION.

(3) REVOCATION UNDER THIS SUBSECTION APPLIES TO A LOT IN A SUBDIVISION FOR WHICH THE RECORD PLAT ALREADY HAS BEEN RECORDED IN THE LAND RECORDS UNLESS ALL FEES AND CHARGES NECESSARY TO CONNECT THE IMPROVEMENTS ON THAT LOT TO THE COUNTY'S WATER OR WASTEWATER SYSTEM WERE PAID AT THE TIME OF REVOCATION.

(4) NO BUILDING OR GRADING PERMITS MAY BE ISSUED FOR A LOT TO WHICH REVOCATION APPLIES, AND THE OFFICE OF PLANNING AND ZONING SHALL MAINTAIN A RECORD AVAILABLE TO THE PUBLIC OF THE LOTS FOR WHICH APPROVAL FOR ADEQUACY OF SEWERAGE FACILITIES OR WATER SUPPLY FACILITIES HAS BEEN REVOKED UNDER THIS SUBSECTION.

(5) IF A BUILDING OR GRADING PERMIT HAS BEEN ISSUED FOR A LOT TO WHICH REVOCATION APPLIES, THE DEPARTMENT OF INSPECTIONS AND PERMITS SHALL REVOKE

1 THE PERMIT AND ISSUE A STOP WORK ORDER. IMPROVEMENTS ON A LOT TO WHICH
2 REVOCATION OF APPROVAL FOR ADEQUACY OF SEWERAGE FACILITIES OR WATER SUPPLY
3 FACILITIES APPLIES MAY NOT BE CONNECTED TO THE COUNTY'S WATER OR WASTEWATER
4 SYSTEM REGARDLESS OF THE STATUS OF THE PERMIT.
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6 SECTION 2. *And be it further enacted*, That except as provided in Section 3 of this
7 Ordinance, the provisions of this Ordinance do not apply to a property with an allocation that
8 goes to tax sale in June 2011 where the lien on the property includes unpaid fees or charges
9 for the allocation under § 13-5-403 of the Anne Arundel County Code (2005, as amended).
10 For a property with an allocation that does not go to tax sale in June 2011 and to which all of
11 the provisions of this Ordinance therefore do apply, the provisions of this Ordinance shall be
12 applied to a failure or continuing failure to pay any fee or charge for an allocation set forth in
13 § 13-5-403 of the Anne Arundel County Code (2005, as amended) as of the effective date of
14 this Ordinance, and in the case of a failure that began before the effective date of this
15 Ordinance the Notice of Default and Lapse of Allocation shall be sent to the owner as soon
16 as ~~practical~~ practicable after the effective date of this Ordinance.
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18 SECTION 3. *And be it further enacted*, That for a property with an allocation that goes to
19 tax sale in June 2011 the amount of the lien on property because of the nonpayment of any
20 fee or charge under § 13-5-403 of the Anne Arundel County Code (2005, as amended) shall
21 be the unpaid balance of the fees and charges set forth in § 13-5-405(b) of the Anne Arundel
22 Code as amended by Section 1 of this Ordinance, and as of the date of the tax sale the
23 allocation shall lapse and the approval of adequacy of sewerage facilities or water supply
24 facilities shall be revoked by operation of law as provided in § 17-5-202(d) of the Anne
25 Arundel County Code as amended by Section 1 of this Ordinance.
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27 SECTION 4. *And be it further enacted*, That the County Controller shall mail notice of
28 the provisions of Section 3 of this Ordinance to the person who last appears as the owner of
29 each property with an allocation that is going to tax sale in June 2011 where the lien on the
30 property includes unpaid fees or charges for the allocation under § 13-5-403 of the Anne
31 Arundel County Code (2005, as amended). The notice shall be mailed to the person's last
32 address as shown on the tax roll. Failure of the County Controller to mail the notice does not
33 invalidate or otherwise affect any tax sale, nor affect the title of any purchaser.
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35 SECTION 5. *And be it further enacted*, That this Ordinance shall take effect 45 days
36 from the date it becomes law.