

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2015, Legislative Day No. 31

Bill No. 78-15

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

By the County Council, July 6, 2015

Introduced and first read on July 6, 2015
Public Hearing set for and held on September 8, 2015
Bill VOTED ON September 21, 2015
Bill Expires October 11, 2015

By Order: Elizabeth E. Jones, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Public Works – Utilities – Allocation Reservation
2 Charges, Capital Facility Connection Deferral Fees and Capital Facility Connection
3 Charges
4

5 FOR the purpose of repealing Bill No. 4-13, Laws of Anne Arundel County, 2013, which
6 extended the termination date established by Bill No. 4-09 and other certain
7 provisions beyond a certain termination date; revising payment terms for certain
8 allocation reservation charges; changing the due dates of the capital facility
9 connection deferral fee and capital facility connection charge; repealing provisions
10 for annual installment payments of the capital facility connection deferral fee and
11 capital facility connection charge; adding new terms for payment of fees and charges;
12 adding new terms for payment of annual interest on the capital facility connection
13 deferral fee and capital facility connection charge; providing for the payment of
14 capital facility connection deferral fees and capital facility connection charges prior to
15 or in conjunction with issuance of a building permit; providing for the retroactive
16 application of this Ordinance in certain situations; providing for the applicability of
17 this Ordinance in certain situations; and generally relating to allocation reservation
18 charges, capital facility connection deferral fees and capital facility connection
19 charges.
20
21

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

1 BY repealing: Bill No. 4-13
2 Laws of Anne Arundel County, 2013

3
4 BY repealing and reenacting, with amendments: § 13-5-403
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 Bill No. 4-13, Laws of Anne Arundel County, 2013, be and is hereby
9 repealed.

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

23
24 (1) an allocation reservation charge equal to 40% of the average cost of water and
25 wastewater, as computed by the Department of Public Works, that would be used if the
26 development on the property were complete and the property was receiving water or
27 wastewater service from the County;

28
29 (2) a capital facility connection deferral fee of 8% of the capital facility
30 connection charge in effect when the capital facility connection deferral fee is paid; and

31
32 (3) the capital facility connection charge established in §§ 13-5-813 and 13-5-814
33 subject to any exemption contained in those sections.

34
35 (b) **Properties not on the waiting list.** For a property that is not on the waiting list
36 provided for in § 17-5-503 of this Code:

37
38 (1) the allocation reservation charge shall be paid as follows:

39
40 (i) quarterly from the date of allocation until the lot is connected to the
41 County's water or wastewater system; or

42
43 (ii) at the option of the property owner:

44
45 1. one-half of the 40% paid per quarter and one-half of the 40% deferred
46 per quarter until the [fifth] EIGHTH anniversary of allocation or connection, whichever
47 occurs first;

1 2. on the [fifth] EIGHTH anniversary of allocation or connection,
2 whichever occurs first, a lump sum consisting of the one-half of the 40% deferred per
3 quarter plus interest at a rate of 8% per annum on the deferred amounts; and
4

5 3. after the [fifth] EIGHTH anniversary of the allocation, if the property is
6 not connected, 40% per quarter; and
7

8 (2) [except as provided in subsection (d),] the capital facility connection deferral
9 fee, [and] the capital facility connection charge, AND THE ACCUMULATED INTEREST
10 CALCULATED IN ACCORDANCE WITH SUBSECTION (F) shall be paid in full within the
11 earlier of [five] EIGHT years after the date of allocation, or PRIOR TO OR IN CONJUNCTION
12 with THE ISSUANCE OF a building permit.
13

14 (c) **Properties on the waiting list.** For a property that is on the waiting list provided
15 for in § 17-5-503 of this Code:
16

17 (1) the allocation reservation charge shall be paid as follows:
18

19 (i) quarterly from the date the property is removed from the waiting list until
20 the lot is connected to the County's water or wastewater system; or
21

22 (ii) at the option of the property owner:
23

24 1. one-half of the 40% paid per quarter and one-half of the 40% deferred
25 per quarter until the [fifth] EIGHTH anniversary of removal from the waiting list or
26 connection, whichever occurs first;
27

28 2. on the [fifth] EIGHTH anniversary of removal from the waiting list or
29 connection, whichever occurs first, a lump sum consisting of the one-half of the 40%
30 deferred per quarter plus interest at a rate of 8% per annum on the deferred amounts; and
31

32 3. after the [fifth] EIGHTH anniversary of removal from the waiting list, if
33 the property is not connected, 40% per quarter; and
34

35 (2) [except as provided in subsection (d),] the capital facility connection deferral
36 fee, [and] the capital facility connection charge, AND THE ACCUMULATED INTEREST
37 CALCULATED IN ACCORDANCE WITH SUBSECTION (F) shall be paid in full within the
38 earlier of [five] EIGHT years after the date the property is removed from the waiting list,
39 or PRIOR TO OR IN CONJUNCTION with THE ISSUANCE OF a building permit.
40

41 **[(d) Annual installments.**
42

43 (1) The capital facility connection deferral fee and the capital facility connection
44 charge may be paid in three annual installments. Any interest and penalties provided for
45 in subsection (f) shall be paid in full with the first installment.
46

47 (2) For properties not on the waiting list, the first payment shall be due five years
48 from allocation. Each subsequent payment shall be due on the anniversary of the
49 allocation. The annual payments shall be subject to an annual percentage rate of 8% of

1 the outstanding balance as of the payment due date and is in addition to any interest
2 provided for in subsection (f).

3
4 (3) For properties on the waiting list, the first payment shall be due five years
5 after the property is removed from the waiting list. Each subsequent payment shall be due
6 on the anniversary of removal from the waiting list. The annual payments shall be subject
7 to an annual percentage rate of 8% of the outstanding balance as of the payment due date
8 and is in addition to any interest provided for in subsection (f).

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

15
16 (5) Building permits issued during the three years of installment payments will be
17 assessed the capital facility connection deferral fee and capital facility connection charge
18 in effect at the time the building permit is issued.]

19
20 **(D) Allocations prior to effective date of Bill No. 78-15; prior payments.**

21
22 (1) FOR ANY PROPERTY THAT RECEIVED AN ALLOCATION PRIOR TO THE
23 EFFECTIVE DATE OF BILL NO. 78-15, THE ALLOCATION RESERVATION CHARGE SHALL BE
24 PAID AS SET FORTH IN SUBSECTION (B)(1) OR (C)(1).

25
26 (2) EXCEPT AS PROVIDED IN SUBSECTION (D)(3), FOR ANY PROPERTY THAT
27 RECEIVED AN ALLOCATION PRIOR TO THE EFFECTIVE DATE OF BILL NO. 78-15, THE
28 CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY CONNECTION
29 CHARGE SHALL BE PAID WHEN DUE AS SET FORTH IN SUBSECTION (B)(2) OR (C)(2) AT THE
30 RATES FOR THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY
31 CONNECTION CHARGE IN EFFECT AT THE TIME PAYMENT IS MADE, PLUS THE
32 ACCUMULATED INTEREST CALCULATED IN ACCORDANCE WITH SUBSECTION (F) AND
33 LATE INTEREST IN ACCORDANCE WITH SUBSECTION (H)(2), IF ANY.

34
35 (3) FOR ANY PROPERTY THAT RECEIVED AN ALLOCATION PRIOR TO THE
36 EFFECTIVE DATE OF BILL NO. 78-15, AND FOR WHICH ONE OR MORE ANNUAL
37 INSTALLMENT PAYMENTS OF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND
38 CAPITAL FACILITY CONNECTION CHARGE HAVE BEEN PAID, THE REMAINDER OF THE
39 CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY CONNECTION
40 CHARGE SHALL BE DUE AS SET FORTH IN SUBSECTION (B)(2) OR (C)(2) AT THE RATES FOR
41 THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY
42 CONNECTION CHARGE IN EFFECT AT THE TIME THAT PAYMENT IS MADE, LESS THE
43 CAPITAL FACILITY CONNECTION DEFERRAL FEES AND CAPITAL FACILITY CONNECTION
44 CHARGES PREVIOUSLY PAID, PLUS THE ACCUMULATED INTEREST CALCULATED IN
45 ACCORDANCE WITH SUBSECTION (F) AND LATE INTEREST IN ACCORDANCE WITH
46 SUBSECTION (H)(2), IF ANY.

47
48 **(e) Additional charges and refunds.**

49
50 (1) If payment of the capital facility connection charge is made before application
51 for a building permit, an additional capital facility connection charge shall be paid IN
52 CONJUNCTION with a building permit only if the number of equivalent dwelling units

1 determined during building permit review exceeds the number of equivalent dwelling
2 units determined at the time of the prior payment.

3
4 (2) If an allocation is reduced after payment of the capital facility connection
5 charge because of a recalculation of the allocation required to serve the property, the
6 owner may obtain a refund of the difference between the capital facility connection
7 charge paid and the amount of the charge due as a result of the recalculation. The owner
8 shall pay any unpaid allocation reservation charges.

9
10 (3) If an allocation is reduced before payment of the capital facility connection
11 charge because of a recalculation of the allocation required to serve the property, the
12 owner shall pay:

13
14 (i) all allocation reservation charges; and

15
16 (ii) all capital facility connection deferral fees that would have been due for
17 each equivalent dwelling unit by which the allocation is reduced.

18
19 (F) **Capital facility connection charge; interest rate.** THE OUTSTANDING
20 PRINCIPAL BALANCE OF THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND
21 CAPITAL FACILITY CONNECTION CHARGE SHALL BE SUBJECT TO AN ANNUAL INTEREST
22 RATE OF 8%, CALCULATED AND ASSESSED ANNUALLY, BEGINNING ON THE FIRST OF THE
23 MONTH OF THE SIXTH ANNIVERSARY OF THE DATE OF ALLOCATION. THE
24 ACCUMULATED INTEREST CHARGES, AND LATE INTEREST IN ACCORDANCE WITH
25 SUBSECTION (H)(2), IF ANY, SHALL BE DUE WITHIN THE EARLIER OF EIGHT YEARS AFTER
26 THE DATE OF ALLOCATION, OR PRIOR TO OR IN CONJUNCTION WITH THE ISSUANCE OF A
27 BUILDING PERMIT.

28
29 (G) **Payment in conjunction with a building permit.** WHEN THE CAPITAL FACILITY
30 CONNECTION DEFERRAL FEE AND CAPITAL FACILITY CONNECTION CHARGE BECOME
31 DUE IN CONJUNCTION WITH A BUILDING PERMIT, THE AMOUNT DUE FOR EACH
32 EQUIVALENT DWELLING UNIT SHALL BE THE TOTAL UNPAID PRINCIPAL BALANCE OF
33 THE CAPITAL FACILITY CONNECTION DEFERRAL FEE AND CAPITAL FACILITY
34 CONNECTION CHARGE, PLUS THE INTEREST ACCUMULATED IN ACCORDANCE WITH
35 SUBSECTIONS (F) AND (H)(2), IF ANY, DIVIDED BY THE NUMBER OF EQUIVALENT
36 DWELLING UNITS REMAINING.

37
38 [(f)] (H) **Penalty; interest.**

39
40 (1) If an allocation reservation charge is not paid within 30 days after the date of
41 billing, a penalty charge equal to 10% of the amount due is owed. The Controller may
42 waive the penalty charged under this subsection no more than once during a calendar year
43 if a bill for an allocation reservation charge is not received due to incorrect owner or
44 address information, or for other reasons as approved by the Controller in consultation
45 with the Director.

46
47 (2) An overdue capital facility connection charge and capital facility connection
48 deferral fee shall accrue interest in accordance with § 4-1-103 of this Code. The
49 Controller may waive the interest accrued IN ACCORDANCE WITH § 4-1-103 OF THIS CODE
50 on a capital facility connection charge and capital facility connection deferral fee no more
51 than once during a calendar year if a bill for the capital facility connection charge and
52 capital facility connection deferral fee is not received due to incorrect owner or address

1 information, or for other reasons as approved by the Controller in consultation with the
2 Director.

3
4 **[(g)] (f) Default.**

5
6 (1) A default occurs if any fee or charge set forth in this section in an amount of
7 \$250 or more is not paid when required and remains unpaid 90 days after a notice of
8 default and lapse of allocation is sent to the property owner.

9
10 (2) Upon default, the allocation lapses and the amount set forth in § 13-5-405(b)
11 becomes due. A record of the default and lapse of allocation shall be sent to the property
12 owner and to the Office of Planning and Zoning, where the record shall be maintained
13 and available to the public.

14
15 SECTION 3. *And be it further enacted*, That this Ordinance shall be construed to
16 apply retroactively to any property with either an outstanding balance of deferred
17 allocation reservation charges, capital facility connection deferral fees, or capital facility
18 connection charges as of the effective date of Bill No. 78-15, or for which a notice of
19 default and lapse of allocation was issued prior to the effective date of Bill No. 78-15 in
20 accordance with § 13-5-403 (g), Anne Arundel County Code (2005, as amended) as a
21 result of a default on the requirement to pay deferred allocation reservation charges,
22 capital facility connection deferral fees, or capital facility connection charges, except that
23 this Ordinance shall not apply to allocations that lapsed in accordance with § 13-5-405,
24 Anne Arundel County Code (2005, as amended) prior to June 5, 2015, unless the
25 allocations are restored prior to the effective date of Bill No. 78-15 in accordance with §
26 13-5-405, Anne Arundel County Code (2005, as amended).

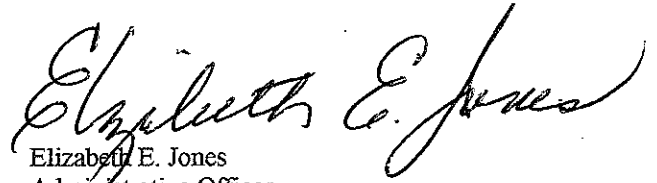
27
28 SECTION 4. *And be it further enacted*, That for any property with either an
29 outstanding balance of deferred allocation reservation charges, capital facility connection
30 deferral fees, or capital facility connection charges as of the effective date of Bill No. 78-
31 15, or for which a notice of default and lapse of allocation was issued prior to the
32 effective date of Bill No. 78-15 in accordance with § 13-5-403 (g), Anne Arundel County
33 Code (2005, as amended) as a result of a default on the requirement to pay deferred
34 allocation reservation charges, capital facility connection deferral fees, or capital facility
35 connection charges; the due date of the deferred allocation reservation charges, capital
36 facility connection deferral fee, or capital facility connection charge and any accumulated
37 interest, the notice of default and lapse of allocation, and the assessment of a penalty or
38 late interest in accordance with § 13-5-403 (f), Anne Arundel County Code (2005, as
39 amended) shall be stayed until 30 days after the effective date of Bill No. 78-15, at which
40 time payment of the deferred allocation reservation charge, capital facility connection
41 deferral fee and capital facility connection charge, any accumulated annual interest, and
42 any penalties or late interest shall become due in accordance with § 13-5-403, as enacted
43 by Section 2 of this Ordinance.

44
45 SECTION 5. *And be it further enacted*, That all references in this Ordinance to “the
46 effective date of Bill No. 78-15”, or words to that effect, shall, upon codification, be
47 replaced with the actual date on which this Ordinance takes effect under Section 307 of
48 the County Charter as certified by the Administrative Officer to the County Council.

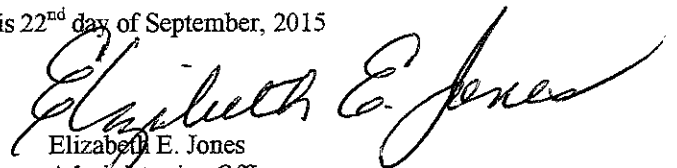
1 SECTION 6. *And be it further enacted*, That this Ordinance shall take effect 45 days
2 from the date it becomes law.

READ AND PASSED this 21st day of September, 2015


By Order:


Elizabeth E. Jones
Administrative Officer

PRESENTED to the County Executive for his approval this 22nd day of September, 2015

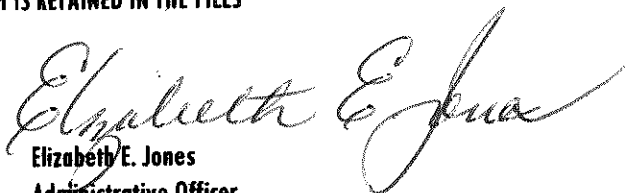

Elizabeth E. Jones
Administrative Officer

APPROVED AND ENACTED this 29th day of September, 2015


Steven R. Schuh
County Executive

EFFECTIVE DATE: November 13, 2015

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
78-15. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.


Elizabeth E. Jones
Administrative Officer