COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 27

Bill No. 79-20

Introduced by Ms. Pickard, Chair
(by request of the County Executive)

and by Ms. Haire

By the County Council, September 21, 2020

Introduced and first read on September 21, 2020
Public Hearing set for and held on October 19, 2020
Bill Expires December 25, 2020

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

AN ORDINANCE concerning: Public Works – Utilities – Extension of Public Water and Wastewater Systems

FOR the purpose of establishing a process for the majority of owners of real property to petition the County to establish water or wastewater facilities or to take over private water or wastewater facilities; defining certain terms; establishing a procedure for the Department upon receipt of a petition; requiring a petition project to be self-sustaining in certain circumstances and requiring a majority of owners to vote in favor of the required rate of assessment; establishing a connection procedure for properties; making it a civil offense and establishing penalties for unlawful connections to the County’s water or wastewater system; permitting certain properties to connect to the County’s water or wastewater system; and generally relating to public works.

BY repealing: §§ 13-5-301; and 13-5-303
Anne Arundel County Code (2005, as amended)

BY adding: §§ 13-5-301; 13-5-303; and 13-5-307
Anne Arundel County Code (2005, as amended)

BY repealing and reenacting, with amendments: §§ 13-5-304; 13-5-305; and 13-5-306
Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
{[Brackets]} indicate matter deleted from existing law.
Captions and taglines in bold in this bill are catchwords and are not law.
SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland, that §§ 13-5-301 and 13-5-303 of the Anne Arundel County Code (2005, as amended) are hereby repealed.

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

ARTICLE 13. PUBLIC WORKS

TITLE 5. UTILITIES

13-5-301. Definitions.

IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(1) “DEFINED AREA” MEANS THE BOUNDARIES OF ALL REAL PROPERTY PROPOSED TO BE PROVIDED WITH PUBLIC WATER OR WASTEWATER FACILITIES SPECIFICALLY DESCRIBED IN A PETITION SUBMITTED TO THE DEPARTMENT AND SHOWN ON A MAP OR DRAWING.

(2) “OWNER” HAS THE MEANING STATED IN § 1-1-101 OF THIS CODE AND, IN ADDITION, MEANS EACH PERSON IN WHOSE NAME AN ACCOUNT WITH RESPECT TO A PARCEL OF REAL PROPERTY STANDS IN THE RECORDS OF THE SUPERVISOR OF ASSESSMENTS FOR THE COUNTY WHEN A PETITION IS SUBMITTED UNDER THIS TITLE.

(3) “PETITION AREA” MEANS THE DEFINED AREA, REVISED DEFINED AREA, OR AREA ENCOMPASSING ALL PROPERTIES TO BE SERVED BY PRIVATE WATER OR WASTEWATER FACILITIES FOR WHICH A PETITION IS SUBMITTED TO THE DEPARTMENT UNDER § 13-5-303(A)(2).

(4) “PROJECT COST” MEANS ALL COSTS OR EXPENSES REQUIRED TO COMPLETE A WATER OR WASTEWATER EXTENSION OR UPGRADE, INCLUDING THE COMBINED COST OF DESIGN, ENGINEERING, SURVEYING, CONSTRUCTION, RIGHT-OF-WAY OR PROPERTY ACQUISITION, AND CONNECTIONS.

(5) “REVISED DEFINED AREA” MEANS A DEFINED AREA THAT IS REVISED BY THE DEPARTMENT AFTER RECEIVING A PETITION, WHICH IS SPECIFICALLY SHOWN ON A MAP OR DRAWING PREPARED BY THE DEPARTMENT.


(A) Petition.

(1) THE OWNERS OF A MAJORITY OF THE PROPERTIES IN A DEFINED AREA THAT IS NOT SERVED BY PUBLIC WATER OR WASTEWATER FACILITIES MAY PETITION THE DEPARTMENT FOR THE ESTABLISHMENT OF PUBLIC WATER OR WASTEWATER FACILITIES WITHIN THE DEFINED AREA.

(2) A MAJORITY OF THE OWNERS OF PRIVATE WATER OR WASTEWATER FACILITIES OR THE OWNERS OF A MAJORITY OF THE PROPERTIES SERVED BY PRIVATE WATER OR WASTEWATER FACILITIES MAY PETITION THE DEPARTMENT TO BRING THE PRIVATE WATER OR WASTEWATER FACILITIES UP TO COUNTY STANDARDS SUCH THAT THE PRIVATE FACILITIES CAN BECOME OWNED BY THE COUNTY.
(B) Revised defined area.

(1) AFTER RECEIPT OF A PETITION SUBMITTED IN ACCORDANCE WITH SUBSECTION (A)(1), THE DEPARTMENT MAY ESTABLISH A REVISED DEFINED AREA TO ADD OR REMOVE PROPERTIES AS NECESSARY FOR ENGINEERING PURPOSES. IF THE DEPARTMENT ESTABLISHES A REVISED DEFINED AREA, THE PETITION SHALL THEREAFTER BE CONSIDERED A PETITION FOR ESTABLISHMENT OF PUBLIC WATER OR WASTEWATER FACILITIES WITHIN THE REVISED DEFINED AREA.

(2) THE DEPARTMENT SHALL NOTIFY THE OWNERS OF THE PROPERTIES ADDED TO OR REMOVED FROM THE DEFINED AREA. AN OWNER OF A PROPERTY ADDED TO THE REVISED DEFINED AREA SHALL BE GIVEN 60 DAYS TO VOTE ON THE PETITION FOR THE REVISED DEFINED AREA. IF A PROPERTY OWNER DOES NOT RESPOND WITHIN 60 DAYS OF THE DATE OF THE NOTICE FROM THE DEPARTMENT, IT SHALL BE CONSIDERED A VOTE AGAINST THE PETITION.


(C) Treatment of petition for one facility as petition for both facilities. AT THE DISCRETION OF THE DIRECTOR, A PETITION FOR EITHER WATER OR WASTEWATER FACILITIES MAY BE TREATED AS A PETITION FOR BOTH FACILITIES. IF THE DIRECTOR DECIDES TO DO SO, THE DIRECTOR SHALL COMBINE THE ESTIMATED COSTS AND THE ESTIMATED REVENUES FOR BOTH FACILITIES FOR THE PURPOSE OF DETERMINING THE PROJECT COST.

(D) Preliminary estimate. ON RECEIPT OF A PETITION BY THE MAJORITY REQUIRED IN SUBSECTION (A) OR (B), THE DEPARTMENT SHALL PREPARE A PRELIMINARY ENGINEERING STUDY AND PRELIMINARY PROJECT COST ESTIMATE.

(E) Publication. WHEN THE PRELIMINARY ESTIMATE IS COMPLETED, THE DEPARTMENT SHALL GIVE NOTICE BY PUBLICATION AS PROVIDED IN § 13-1-103. THE NOTICE SHALL SPECIFY THE EXTENT OF THE IMPROVEMENTS; THE PROPOSED AREA TO BE SERVED; AND A TIME AND PLACE FOR A PUBLIC HEARING BEFORE THE DIRECTOR AT WHICH PERSONS INTERESTED IN THE IMPROVEMENTS MAY APPEAR AND PRESENT THEIR VIEWS.

(G) **Self-sustaining requirement.** In order for the Department to proceed with final engineering, design, and construction, a project shall be self-sustaining, except to the extent the county provides a subsidy under § 13-5-815.2. A project is self-sustaining if the Director determines that the county will recover the net assessable amount of a project from the estimated revenues of the project within 30 years after its completion, or for projects that qualify for a partial deferral under § 13-5-815.1, within 40 years after its completion.

(H) **Net assessable amount.** After the public hearing, the Director shall determine the net assessable amount of a project by:

1. Establishing the project cost;
2. Subtracting any costs associated with making service available beyond the petition area, and any state aid, federal aid, or any other contributions towards the project; and
3. Adding the amount necessary to reimburse the county for the estimated interest expense of the county money invested in the project, as determined by the Controller.

(I) **Estimated revenues.** The Director shall determine the estimated revenues of a project by dividing the net assessable amount by 30, or, for projects that qualify for a partial deferral under § 13-5-815.1, by 40.

(J) **Assessment rate ballot.** The Director shall determine the rate at which the assessments authorized by §§ 13-5-601, et seq. are required to make the project self-sustaining, and the Department shall provide an assessment rate ballot to the owners of the properties within the petition area. If the owners of a majority of the properties within the petition area vote in favor of the rate of assessment sufficient to make the project self-sustaining, the project may move forward to final engineering, design, and construction. If a property owner does not respond within the time set forth in the ballot, it shall be considered a vote against the rate of assessment.

(K) **Preparation of detailed plans.** If the owners of a majority of the properties within the petition area vote in favor of the rate of the assessment sufficient to make the project self-sustaining, the Director shall cause detailed surveys, plans, specifications, engineers’ reports, and estimates to be prepared, and the project may proceed to final engineering, design, and construction.

(L) **Abandonment by petitioners.** A project shall be considered abandoned if the owners of a majority of the properties within the petition area file a counter-petition against the project any time after the Director proceeds in accordance with subsection (K) and before a construction contract is awarded for the project. A counter-petition may not be considered if received after the award of the construction contract for the project or after materials to construct the project are ordered.

(M) **Costs upon abandonment.** Except when the project costs increase more than 15% above the amount set forth in the assessment ballot signed in accordance with subsection (J), when a project is abandoned in accordance with subsection (L), the project costs incurred by the county, from the preliminary estimate to the time the project is abandoned, shall be certified by the Director to the County Council. Beginning with the next annual tax
ORDINANCE, THE COUNTY COUNCIL SHALL LEVY, FOR A PERIOD OF TIME NOT TO EXCEED
FIVE FISCAL YEARS, A SPECIAL ASSESSMENT ON REAL PROPERTY IN THE PETITION AREA,
AT A RATE SUFFICIENT TO PAY THE PROJECT COSTS INCURRED BY THE COUNTY UP TO THE
TIME OF THE ABANDONMENT. IF THE SPECIAL ASSESSMENT IS LEVIED FOR MORE THAN
ONE YEAR, THE RATE SHALL INCLUDE THE AMOUNT NECESSARY TO REIMBURSE THE
COUNTY FOR THE ESTIMATED INTEREST EXPENSE, AS DETERMINED BY THE CONTROLLER.
THE ASSESSMENT SHALL BE COLLECTED AS PROVIDED IN § 1-8-101 OF THIS CODE.

(N) Decision not to proceed. THE DIRECTOR MAY DECIDE NOT TO PROCEED IN
ACCORDANCE WITH THIS SECTION AT ANY STAGE IF THE SERVICE SOUGHT IN A PETITION
IS NOT IN COMPLIANCE WITH STATE LAW, THIS CODE, OR THE MASTER PLAN FOR WATER
SUPPLY AND SEWERAGE SYSTEMS; THE COUNTY IS UNABLE TO ACQUIRE PROPERTY
REQUIRED FOR THE PROJECT; OR FOR ANY OTHER REASON.

13-5-304. Service access connection.

The Department shall provide for each property abutting on a road or right-of-way in
which a water main or wastewater main is laid a water or wastewater service access
connection. The access connection shall be constructed by and at the sole expense of the
Department. IF A CONNECTION IS MADE, [[The]] THE owner of the property [[to be]]
connected shall pay to the County all [[required]] charges REQUIRED BY THIS ARTICLE
before connection to the system.

13-5-305. Connections to public water and wastewater mains required.

(a) Definition. “PROPERTY REQUIRED TO CONNECT” MEANS ALL IMPROVED
PROPERTIES ABUTTING A ROAD OR RIGHT-OF-WAY IN WHICH A WATER MAIN OR
WASTEWATER MAIN IS LAID FOR A PROJECT INITIATED IN ACCORDANCE WITH §§ 13-5-302
OR 13-5-303.

(B) Authority. This section is supplemental to other authority vested in the Health
Department and the Maryland Department of the Environment to regulate public or private
water or wastewater supply or usage.

[[(b)]] (C) Election by County not to connect. The provisions of this section or other
provisions of law do not prohibit the Department from electing not to connect otherwise
eligible improved property for reasons of practical and efficient engineering, excessive
cost, or other cause.

[[(c)]] (D) Notice. A notice of permit application, connection, and other requirements
to [[an abutting owner required by this section]] THE OWNER OF A PROPERTY REQUIRED
TO CONNECT shall be sent by first class mail to the owner’s address as shown on the current
tax assessment records, and a notice as to the availability of a public water MAIN or
wastewater main for service shall be published as required by § 13-1-103. Failure to receive
notices required by this section or under authority of former law does not excuse failure to
comply with this section.

[[(d)]] (E) Application for permits deadline. [[Except as provided in subsection (e)
within]] WITHIN six months after the date [[that the County mails]] OF A written notice
FROM THE COUNTY to an owner of record of [[an improved lot abutting a public right-of-
way in which a public water main or wastewater main lies that a public water main or
wastewater main is available for the delivery of water service to or the reception of wastewater from the property. A property required to connect, the owner shall make appropriate applications for permits required by this Code for connection to the abutting water main or wastewater main and shall pay the applicable permit fees and connection charges or apply, if eligible, for a deferral allowed under § 13-5-815.1, a subsidy allowed under § 13-5-815.2, installment payment for the charges (if eligible) under § 13-5-813, or any combination of these. (For the purposes of this subsection, the date of written notice to the owner is the date the original notice is mailed by first class mail, postage prepaid, to the owner of record and after that date, if a lien has not been recorded in the County’s tax records before a conveyance of the property, the date written notice is mailed to a subsequent purchaser of the same property.)

[(e) Permit deadline waiver; revocation of waiver. The Director may waive the provisions of subsection (d) for the owner of an improved parcel of property abutting a public right-of-way in which a public water main or wastewater main lies if the cost of construction has been paid by a developer or other individual in order to provide service to property being developed. Notwithstanding a waiver granted under this subsection, an owner may subsequently elect to connect to the water or wastewater main in compliance with the conditions specified in this section. The Director may revoke a waiver when necessary to protect the public health or welfare, and within six months after receipt of written notice of the revocation, the owner of the property shall comply with the requirements of this section.)

(f) Completion of connection. Except as provided in subsection (g), the owner of an improved abutting property required to connect under the provisions of this section shall arrange to complete the necessary work for the connection of the water supply facilities or wastewater facilities on the property to the abutting public main within nine months from the date of the issuance of the notice and, unless excused for reasons of partial connection or non-connection under subsection [(b)](C), the owner shall disconnect and terminate the use of a cesspool, septic tank, dry well, privy, vault, or well used for household water purposes on the property.

(g) Extension of completion of connection date. If an owner of an improved abutting property required to connect has complied with the provisions of subsection (f) and has encountered conditions beyond the owner’s control that render impracticable completion of a connection within the required time period, the Director may grant a temporary waiver or extension of the time for the connection on timely submission of proof of the condition. The decision to grant a temporary waiver or extension is in the discretion of the Director.

(h) Failure to comply. An owner of an improved abutting property required to connect who has not complied with the provisions of this section is liable for the connection charges and forfeits the privilege of deferring payment or continuing deferred payments of any pending or further charges permitted under § 13-5-813 and § 13-5-815.1 and forfeits the right to any subsidy granted by the County under § 13-5-815.2. The previously subsidized and deferred amounts, and the amounts due under the] an executed installment agreement shall constitute a lien and be immediately due and payable. Until the property that is not in compliance is connected, the owner is also subject during the period not connected to the quarterly minimum usage charges...
established under § 13-5-805 for the type of service applied for, or for which the connection is required.

(i) **Lien.** The lien provided for in subsection (h) is subordinate only to the lien of State and County taxes and special benefit assessments. Payment shall be collected as provided in § 1-8-101 of this Code.

### 13-5-306. Unlawful connection.

(a) **Requirements.** A person may not make a DIRECT OR INDIRECT connection to a County water LINE or wastewater line without permission from the Director and without having complied with a connection permit and other connection application requirements of this Code. A person may not turn on a water valve or restore water service that has been disconnected or turned off without permission from the Director. A person may not use County water other than through a water meter with a required backflow prevention device.

(b) **Notice and charges for unlawful connection; disconnection.** On discovery of an unlawful connection, the Department shall issue a notice requiring the property owner to make appropriate applications and pay appropriate charges, including connection CHARGES IMPOSED UNDER § 13-5-813, ASSESSMENTS IMPOSED UNDER § 13-5-601, ET SEQ., and past service charges, within 30 days after [[issuance]] THE DATE of the notice. The charges shall be determined as of the date of the permit application. If the property owner fails to submit proper applications and pay appropriate charges, the Department may disconnect the premises until proper applications are submitted. The property shall be subject to all other connection requirements and procedures of this Code.

(c) **Past service charges; penalties.** IT IS A CLASS C CIVIL OFFENSE TO CONNECT TO A COUNTY WATER LINE OR WASTEWATER LINE WITHOUT A CONNECTION PERMIT. THE OWNER OF A PROPERTY SERVED BY AN UNLAWFUL CONNECTION WHO CAUSES DAMAGE TO OR IMPAIRS THE COUNTY WATER OR WASTEWATER SYSTEM IS LIABLE TO THE COUNTY FOR ANY EXPENSES, LOSS, OR DAMAGE CAUSED BY THE ILLEGAL CONNECTION, INCLUDING COURT COSTS AND ATTORNEY’S FEES. [[In addition to any other penalties applicable under this article, the]] THE owner of any property served by an unlawful connection shall pay the past water and wastewater service charges for use of public water or wastewater since the actual connection. If the time of connection cannot be determined or if the property has been transferred since the connection, the period of violation subject to past service charges shall end at the time of disconnection and shall begin on the last to occur of the following: one year after the system was released for service; on the date legal title was conveyed to the owner; or on the date service was PREVIOUSLY disconnected or discontinued for any reason. In calculating past service charges, the average periodic service charge for properties similarly used shall be applied for the period of THE violation.

### 13-5-307. Properties permitted to connect; required connections.

(A) **Connection permitted.** EXCEPT AS PROVIDED IN SUBSECTION (B), THE OWNER OF IMPROVED PROPERTY ABUTTING A PUBLIC WATER OR WASTEWATER MAIN IS PERMITTED TO CONNECT TO A PUBLIC WATER MAIN OR WASTEWATER MAIN CONSTRUCTED: (I) AT THE COST OF A DEVELOPER OR OTHER INDIVIDUAL IN ORDER TO PROVIDE SERVICE TO PROPERTY BEING DEVELOPED; OR (II) BY THE COUNTY SOLELY AT COUNTY EXPENSE EXCEPT FOR A PROJECT INITIATED UNDER § 13-5-302 OR § 13-5-303. BEFORE AN OWNER MAKES A CONNECTION TO A WATER MAIN OR WASTEWATER MAIN IN ACCORDANCE WITH
THIS SUBSECTION, THE OWNER SHALL MAKE APPROPRIATE APPLICATIONS FOR PERMITS REQUIRED BY THIS CODE FOR CONNECTION TO A WATER MAIN OR WASTEWATER MAIN AND SHALL PAY THE APPLICABLE PERMIT FEES, CONNECTION CHARGES IMPOSED UNDER § 13-5-813, AND ASSESSMENTS IMPOSED UNDER § 13-5-601, ET SEQ.

(B) **Connection required.** THE DIRECTOR MAY REQUIRE CONNECTION TO A WATER MAIN OR WASTEWATER MAIN FOR PROPERTY THAT IS PERMITTED TO CONNECT UNDER SUBSECTION (A) WHEN NECESSARY TO PROTECT THE PUBLIC HEALTH OR WELFARE. WITHIN SIX MONTHS AFTER THE DATE OF A WRITTEN NOTICE OF THE REQUIREMENT TO CONNECT UNDER THIS SUBSECTION, THE OWNER OF THE PROPERTY SHALL COMPLY WITH AND BE SUBJECT TO THE REQUIREMENTS IN § 13-5-305(E) THROUGH (I).

SECTION 3. **And be it further enacted,** That this Ordinance shall take effect 45 days from the date it becomes law.

READ AND PASSED this 19th day of October, 2020

By Order:

[Signature]
JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 21st day of October, 2020

[Signature]
JoAnne Gray
Administrative Officer

APPROVED AND ENACTED this 29th day of October, 2020

Steuart Pittman
County Executive

EFFECTIVE DATE: December 13, 2020

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO. 79-20. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.

[Signature]
JoAnne Gray
Administrative Officer