A BILL ENTITLED

AN ORDINANCE concerning: Public Works – Utilities – Assessments – Water and Wastewater Facilities

FOR the purpose of authorizing assessments to recover the County’s cost of constructing certain water and wastewater facilities; defining certain terms; providing for the calculation, imposition, payment, and collection of assessments to recover the County’s cost of constructing water and wastewater facilities; establishing a method of determining the assessable amount for a lot; requiring the payment and forfeiture of certain assessments upon development; requiring notice of an assessment and opportunity to appeal an assessment; establishing a rate for assessment for properties connecting to capital projects extending water or wastewater facilities; prohibiting the application of this Ordinance to certain properties; and generally relating to public works.


BY adding: §§ 13-5-601 through 13-5-605 to be under the new subtitle “Subtitle 6. Assessments” Anne Arundel County Code (2005, as amended)

SECTION 1. Be it enacted by the County Council of Anne Arundel County, Maryland, That §§ 13-5-601 through 13-5-606 and the subtitle “Subtitle 6. Front Foot Assessments” of the Anne Arundel County Code (2005, as amended) be repealed.

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 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

SUBTITLE 6. ASSESSMENTS


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

(1) “EQUIVALENT DWELLING UNIT” HAS THE MEANING STATED IN § 13-5-401(4).

(2) “LOT” MEANS THOSE PARCELS OF REAL PROPERTY THAT HAVE SEPARATE TAX ACCOUNT NUMBERS ACCORDING TO THE PROPERTY ACCOUNT IDENTIFICATION NUMBERS ASSIGNED BY THE MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION, WHETHER OR NOT IMPROVED, BUT THE TERM DOES NOT INCLUDE A LOT THAT THE OWNER CAN PROVE TO THE SATISFACTION OF THE COUNTY IS NON-BUILDABLE UNDER ANY CIRCUMSTANCE.

(3) “NONRESIDENTIAL LOT” MEANS ANY LOT OTHER THAN A RESIDENTIAL LOT.

(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) “RESIDENTIAL LOT” MEANS A LOT THAT IS ZONED RESIDENTIAL AS SHOWN ON THE ANNE ARUNDEL COUNTY DIGITAL ZONING LAYER ADOPTED IN ACCORDANCE WITH § 18-2-106 OF THIS CODE, OR A LOT UPON WHICH THERE IS AT LEAST ONE DWELLING UNIT, AS DEFINED IN ARTICLE 18.

13-5-602. Authority to impose; liability; lien.

(A) Authority to impose. THE COUNTY MAY IMPOSE ASSESSMENTS TO RECOVER THE PROJECT COST TO THE COUNTY OF CONSTRUCTING WATER OR WASTEWATER FACILITIES OR THE PROJECT COST OF BRINGING PRIVATE WATER OR WASTEWATER FACILITIES UP TO COUNTY STANDARDS SO THAT THE COUNTY MAY ACCEPT OWNERSHIP OF THE PRIVATE FACILITIES.

(B) Duty to pay. THE OWNERS OF REAL PROPERTY, INCLUDING THE COUNTY, WHO CONNECT TO THE COUNTY’S WATER OR WASTEWATER FACILITIES OR WHOSE PROPERTY IS BENEFITED BY THE COUNTY’S WATER OR WASTEWATER FACILITIES SHALL PAY THE APPLICABLE ASSESSMENTS SET FORTH IN THIS SUBTITLE.

(C) Collection. EXCEPT FOR PROPERTIES THAT QUALIFY FOR THE DEFERRAL DESCRIBED IN § 13-5-815.1, ASSESSMENTS SHALL BE BILLED ANNUALLY OVER A 30-YEAR PERIOD. FOR PROPERTIES THAT QUALIFY FOR THE DEFERRAL DESCRIBED IN § 13-5-815.1, ASSESSMENTS SHALL BE BILLED ANNUALLY OVER A 40-YEAR PERIOD. ASSESSMENTS SHALL BE PAID WITHIN 30 DAYS OF THE DUE DATE ON THE BILLING INVOICE, AND ANY AMOUNT UNPAID 30 DAYS AFTER THE DUE DATE SHALL BE COLLECTED AS PROVIDED IN § 1-8-101 OF THIS CODE, EXCEPT AS PROVIDED IN § 13-5-603(H) AND EXCEPT FOR AN ANNUAL ASSESSMENT THAT HAS BEEN BILLED, ASSESSMENTS REMAIN A LIEN AGAINST THE PROPERTY UPON A TRANSFER OF TITLE.

(A) Requirement. For a property required to connect to a project initiated in accordance with §§ 13-5-302 and 13-5-303 or for a project bringing private water or wastewater facilities up to county standards so that the county may accept ownership of the private facilities in accordance with § 13-5-105, the director shall calculate the rate of the assessment to be levied in order to recover the project costs for each individual project in accordance with this section.

(B) Definition of net assessable amount. 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 area to be served and any state aid, federal aid, or other contributions towards the project; and
3. Adding the amount necessary to reimburse the county for the estimated interest expense of the county funds invested in the project, as determined by the controller.

(C) Assessment determined by dividing the net assessable amount by the number of equivalent dwelling units. For purposes of the assessment, the director shall determine equivalent dwelling units as set forth in § 13-5-804(A), subject to the limitations set forth in subsection (E). Except as provided in subsection (H), each lot shall be assigned at least one equivalent dwelling unit. The director shall set the assessment for an equivalent dwelling unit by dividing the net assessable amount by the total number of equivalent dwelling units attributable to all of the lots to be served by the project.

(D) Assessment; residential lot. For a residential lot, the assessment shall be the equivalent dwelling unit assessment as calculated in accordance with subsection (C) multiplied by the number of equivalent dwelling units attributable to the lot, less any state aid, federal aid, or county subsidy provided for the residential lot.

(E) Assessment; nonresidential lot. For a nonresidential lot, the assessment shall be:

1. The equivalent dwelling unit assessment as calculated in accordance with subsection (C) multiplied by the number of equivalent dwelling units attributable to the uses on the nonresidential lot, except that for purposes of the assessment, the number of equivalent dwelling units attributable to a nonresidential lot may not exceed five for industrial uses or three for all other nonresidential uses; and
2. The costs, as determined by the department, to upgrade, upsize, or improve the water or wastewater facilities to serve the specific needs of the nonresidential lot that exceed the amount calculated under paragraph (1).

(F) Annual assessment. The owner of each lot shall annually pay the assessment calculated for the lot in accordance with subsection (D) or (E) divided by 30 years, or, for projects that qualify for the deferral described in § 13-5-815.1, divided by 40.
(G) Payment upon subdivision; change in use.

(1) IF A LOT SUBJECT TO AN ASSESSMENT UNDER THIS SUBTITLE IS SUBDIVIDED IN ACCORDANCE WITH ARTICLE 17 OF THIS CODE, THE REMAINDER OF THE ASSESSMENT SHALL BE PAID IN FULL PRIOR TO APPROVAL OF THE SUBDIVISION PLAT AND THE REMAINDER SHALL BE COLLECTED AS PROVIDED IN § 1-8-101 OF THIS CODE AND CONSTITUTE A LIEN ON THE PROPERTY. THE DIRECTOR MAY IMPOSE AN ASSESSMENT ON ANY NEW LOTS CREATED AS A RESULT OF A SUBDIVISION.

(2) THE DIRECTOR MAY INCREASE OR DECREASE THE ASSESSMENT OF A LOT IF THE USE ON A LOT IS CHANGED, AND THE DIRECTOR SHALL ADJUST, AS APPROPRIATE, THE EQUIVALENT DWELLING UNIT ASSESSMENT AMONG THE LOTS INCLUDED IN THE PROJECT AREA.

(H) Exemptions. UPON A REQUEST BY THE OWNER AND CONFIRMATION BY THE DEPARTMENT THAT THE LOT FALLS INTO ONE OF THE BELOW CATEGORIES, THE FOLLOWING LOTS ARE EXEMPT FROM THE ASSESSMENT:

(1) UNIMPROVED COMMON AREAS, RECREATION AREAS, OR OPEN SPACES SHOWN ON A SUBDIVISION PLAT AND OWNED BY A NONPROFIT COMMUNITY OR HOMEOWNERS’ ASSOCIATION; AND

(2) A LOT OWNED BY A NONPROFIT COMMUNITY OR HOMEOWNERS’ ASSOCIATION IF NO STRUCTURE ON THE LOT IS SERVED BY A PRIVATE WATER OR WASTEWATER SYSTEM AT THE TIME OF THE CALCULATION OF THE NET ASSESSABLE AMOUNT.

13-5-604. Notice and hearing; finality; adjustments.

(A) Notice of assessment. BEFORE THE ASSESSMENT FOR A LOT BECOMES FINAL, THE DIRECTOR SHALL NOTIFY THE OWNER OF THE PROPERTY IN WRITING:

(1) OF THE NUMBER OF EQUIVALENT DWELLING UNITS AND THE ASSESSMENT ASSIGNED TO THE PROPERTY;

(2). OF THE RIGHT TO APPEAL THE ASSESSMENT IN A WRITING DIRECTED TO THE DIRECTOR AND TO REQUEST A HEARING ON THE APPEAL BEFORE THE DIRECTOR; AND

(3) THAT THE DEADLINE FOR FILING AN APPEAL AND FOR REQUESTING A HEARING IS 30 DAYS AFTER THE DATE OF THE NOTICE OF ASSESSMENT.


(C) Finality; extension of hearing date. THE ASSESSMENT BECOMES FINAL UNLESS THE PROPERTY OWNER APPEALS THE ASSESSMENT IN WRITING WITHIN 30 DAYS AFTER THE DATE OF THE NOTIFICATION OF THE ASSESSMENT.

(D) Adjustments. THE DIRECTOR MAY MAKE FAIR AND REASONABLE ADJUSTMENTS IF THE DIRECTOR CONCLUDES THAT, BASED ON AN APPEAL OF AN ASSESSMENT, THE ORIGINAL ASSESSMENT WAS INCORRECT OR INEQUITABLE BASED ON THE USE OF THE LOT.
13-5-605. Properties permitted to connect.

(A) Connections and assessment rates — capital projects.

Except for projects constructed in accordance with §§ 13-5-302 or 13-5-303, for projects that extend water or wastewater facilities at the County’s sole expense, property owners are not required to connect to the facilities. If a property owner chooses to connect to the facilities, the County shall impose an annual assessment at the minimum basic rates in effect at the time of the connection. Beginning on the effective date of Bill No. 80-20, the minimum basic assessment rate shall be $343.00 per equivalent dwelling unit for connections to the water system and $692.00 per equivalent dwelling unit for connections to the wastewater system. The equivalent dwelling units shall be assigned to a lot by the method set forth in § 13-5-603(D) and (E).

(B) Annual minimum basic assessment rate adjustments — capital projects.

In this subsection, “CPI” means the Consumer Price Index - All Urban Consumers published by the United States Department of Labor, Bureau of Labor Statistics. Beginning on July 1, 2021, and each July 1 thereafter, the Director may adjust the minimum basic assessment rates set forth in subsection (A) by a percentage change calculated by dividing the CPI for April of that calendar year by the CPI for April for the immediately preceding calendar year. The Director shall give written notice of the annual adjustment to the Office of Finance and to the County Council. The annual adjustment shall be automatically effective on July 1 of each year.

SECTION 4. And be it further enacted, That this Ordinance may not be construed to apply to any real property to be served by the project known as Coriander Place — Gingerville Water Project, No. W805901; and may not be construed to apply to any real property assessed prior to the effective date of this Ordinance.

SECTION 5. And be it further enacted, That this Ordinance shall take effect 45 days from the date it becomes law.
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. 80-20. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE COUNTY COUNCIL.

JoAnne Gray  
Administrative Officer