



Legislation Details (With Text)

**File #:** O-4-20      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Adopted

**File created:** 3/23/2020      **In control:** City Council

**On agenda:** 5/26/2020      **Final action:** 5/26/2020

**Title:** Plumbing Code - Capital Facilities Payment Plan - For the purpose of establishing a Capital Facilities Payment Plan; identifying eligibility requirements, setting a payment schedule, providing for interest and penalties; making stylistic changes; and generally related to said payment plan.

**Sponsors:** Gavin Buckley

**Indexes:** Economic Matters Committee

**Code sections:**

**Attachments:** 1. O-4-20 Capital Facilities Payment Plan First Reader.pdf, 2. O-4-20 Staff Report.pdf, 3. O-4-20 Fiscal Impact Note.pdf, 4. O-4-20 SIGNED.pdf

Date	Ver.	Action By	Action	Result
5/26/2020	1	City Council	postpone	
5/26/2020	1	City Council	adopt on second reader	Pass
5/26/2020	1	City Council	amended	Fail
5/26/2020	1	City Council	postpone	Fail
5/26/2020	1	City Council	adopt on third reader	Pass
5/14/2020	1	Economic Matters Committee	recommend favorably	Pass
5/11/2020	1	City Council	declare the public hearing closed	
4/27/2020	1	City Council	refer	
4/27/2020	1	City Council	adopt on first reader	Pass

**Plumbing Code - Capital Facilities Payment Plan -** For the purpose of establishing a Capital Facilities Payment Plan; identifying eligibility requirements, setting a payment schedule, providing for interest and penalties; making stylistic changes; and generally related to said payment plan.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 4-20**

**Introduced by: Mayor Buckley**

**Co-sponsored by:**

**Referred to  
Economic Matters Committee  
90 day Rule: 7/27/20**

**AN ORDINANCE** concerning

## Plumbing Code - Capital Facilities Payment Plan

**FOR** the purpose of establishing a Capital Facilities Payment Plan; identifying eligibility requirements, setting a payment schedule, providing for interest and penalties; making stylistic changes; and generally related to said payment plan.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2020 Edition  
17.28.090  
17.28.100

**BY** repealing and re-enacting without amendments the following portions of the Code of the City of Annapolis, 2020 Edition  
17.28.095

**SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

### **Title 17 - BUILDINGS AND CONSTRUCTION Chapter 17.28 - PLUMBING CODE**

#### **Section 17.28.090 - Permit-Fees-Schedule.**

The charges for issuance of permits are the sum of a connection charge, a capital facility charge, a capital facility assessment charge and an installation charge. The charges shall be recommended to the City Council by the Director of Public Works and collected by the Director of Planning and Zoning. The schedule of fees shall be established by resolution of the City Council.

- A. **Connection Charges.** Connection charges for a one inch or less water service and four-inch sewer service shall be based on the City's cost of constructing the water and sewer service lines between the property line and main pipeline, including the cost of the water meter. There will be no connection charges for water services constructed by the applicant (all services greater than one inch and, when approved by the Director of Public Works, one inch or less) and for sewer services constructed by the applicant (all service greater than four inches and, when approved by the Director of Public Works, four inches), but all costs associated with the construction of the connection between the property line and main pipeline, including the cost of the water meter, shall be the responsibility of the applicant.
- B. **Capital Facility Charges.** Capital facility charges shall be based on equivalent dwelling units (EDU). An EDU is ~~two hundred fifty~~ 250 gallons per day. No less than one EDU shall be charged.
  1. An individual residential dwelling unit is one EDU.
  2. All other uses will be charged based on the number of EDUs. Determination of the number of EDUs is as follows:
    - (a) By Director of Planning and Zoning. Whenever a charge is set based on EDUs, the property owner shall provide all information required by the Director of Planning and Zoning

and the Director shall reasonably determine, based on that information and any other information that the Director deems appropriate, the number of EDUs for a property based on peak daily usage. If the Director of Public Works determines within a three-year period after the initial determination that the property owner provided materially inaccurate information, the Director shall re-determine the number of EDUs and the property owner shall be liable for the difference in any charge that is set based on EDUs.

- (b) By agreement.
- (1) In this section, "peaked average daily usage" means a number of gallons of water that is the product of the average daily water usage by a property owner during the highest actual usage billing cycle within a defined period times the peaking factor of 1.4.
  - (2) If the Director of Public Works finds that new technology or other unique circumstances may significantly affect the determined peak daily usage, the Director may enter into an agreement with the property owner to recalculate the number of EDUs based on peaked average daily usage over a period of time determined by the Director. The agreement shall provide for refund of charges by the City if peaked average daily usage is less than ~~eighty~~80 percent of determined peak daily usage and for payment of additional charges by the property owner if peaked average daily usage is more than ~~one hundred twenty~~120 percent of determined peak daily usage based on the recalculation. The agreement shall include terms and conditions as determined by the Director to protect the City's interest in receiving payment of all additional charges and to bind as necessary the property owner and any successor in interest. If there is a change in use of the property during the time when the recalculation is being made, the agreement shall be null and void.

3. Industrial wastes of unusual strength or character may be assessed additional EDUs as determined by the Director of Planning and Zoning or his or her designee may require pretreatment to remove heavy metals or other deleterious materials prior to discharge of the waste to the City sewer system.
4. Combined commercial, industrial and institutional facilities' EDUs shall be determined by summing the EDUs for the individual functional areas.
5. A person who purchases a home in the urban renewal project area and who previously resided in the home either as an owner or renter continuously for six months immediately prior to the acquisition of the home by the urban renewal authority, is exempt from the payment of the capital facilities charge.
6. Capital facilities and capital facilities assessment charges shall be used exclusively to pay for either or both the capital improvements and retirement of bonds on the sewer systems and water systems or facilities and not to supplement user rates.
7. When the use and occupancy of a structure is changed, the Director of Planning and Zoning or his or her designee shall determine if the water consumption or sewage discharge has changed materially from the previous use. Any significant increase in usage or discharge may require assessment of capital facilities charges as outlined in this subsection.

C. Capital Facility Assessment Charge. A capital facility assessment charge will continue to be applied after December 19, 2011 for accounts with remaining capital facility assessment charge balances. For active permits prior to December 19, 2011, the current structure for capital facility assessment charges will continue to be in effect.

D. Installation Charges.

1. Reinspection Fee. A fee as established by resolution of the City Council must be paid before

another inspection is made, if, for the original inspection, one or more of the following occurred:

- a. Requesting party called for inspection, but work was not ready;
- b. Requesting party was not on site;
- c. Building was locked;
- d. Safety features not on site;
- e. Approved drawings not on site;
- f. Permit card not posted and visible from fronting street.

E. State Road Opening or Tunneling. For any connection in which a state road must be opened or tunneled, the charges set out in this section for public sewer and water supply connections shall be increased by the additional cost of the work as estimated and approved by the Director of Planning and Zoning or his or her designee.

F. Master Plumber and Gasfitter. Master plumbers who currently are registered in the City and who also are registered master gasfitters in the City shall be charged as established by resolution of the City Council for the additional gas connection for gas hot water heaters; otherwise, the gas connection for gas hot water heaters must be made by a registered master gasfitter at the regular rates.

G. Sizes Not Shown. Charges for any sizes not shown in this section shall be determined by the Director of Planning and Zoning or his or her designee.

H. The City Council may designate by resolution certain areas in the City of Annapolis to be revitalization areas. In adopting such a resolution, the City Council shall take into consideration the following factors as they apply to the area:

1. The availability, cost, and condition of business facilities;
2. The age and number of substandard structures;
3. The income of residents relative to State or regional median incomes, including the number of persons who are welfare recipients or unemployed;
4. The extent of unemployment and the availability in the area of jobs for residents of the area;
5. The need for small businesses to locate in the area in order to upgrade the social and economic conditions of the designated neighborhood; and
6. Support from community and business organizations.

I. When a property lies in a designated revitalization area, the capital facility charge shall, at the request of the owner, be payable as follows: Forty percent prior to the issuance of any permit; twenty percent prior to the first anniversary of the earliest permit issuance; twenty percent prior to the second anniversary of the earliest permit issuance; final twenty percent prior to the third anniversary of the earliest permit issuance.

J. A qualifying local business that meets all of the criteria in Section K. shall, at the request of the business owner, be eligible to pay the capital facility charge as follows: Forty percent prior to the issuance of any permit; twenty percent prior to the first anniversary of the earliest permit issuance; twenty percent prior to the second anniversary of the earliest permit issuance; final twenty percent prior to the third anniversary of the earliest permit issuance.

K. A local business means:

1. The principal office or business is physically located within the Annapolis City limits with no other national headquarters outside the City of Annapolis;
2. There are five or fewer branches or outlets of the business in total;
3. The business is privately-, employee-, community-, or cooperatively-owned (not publicly traded);
4. The business pays for all of its own marketing, rent, and other business expenses without assistance from, or payment to, a corporate headquarters that owns one or more shares in the

applicant's business;

5. The decision-making authority is vested in the local owner and not subject to conditions dictated or required remotely; and
  6. Any additional criteria as promulgated by regulations from the small minority business enterprise coordinator.
- L. When a business owner requests a capital facility charge payment plan, such owner must have an approved agreement signed by the business owner and property owner stating that a notice of lien is to be executed on the property. The lien will remain in effect until the deferred fees have been paid in full.
- M. Capital facility charges that are deferred shall accrue interest after the first twelve months. Interest rates will be established annually by the finance director and will be based on the prime interest rate plus three percent, effective July 1st of each year. Any fees deferred shall be paid at the interest rate in effect at the time of payment.
- N. Applicants subject to permit fees in Section 17.28.090 of the City Code shall be eligible to pay the plumbing permit fees (a connection charge, a capital facility charge, a capital facility assessment charge, and an installation charge), in effect at the time of a special exception or other development review application, rather than the fees that may be in effect at the time the permit is issued. This provision shall retroactively apply to all applicants for a special exception or other development review applications submitted on or before July 1, 2011.

#### Section 17.28.095 - Letter of credit.

An irrevocable letter of credit in a form acceptable to the Director of Planning and Zoning, issued by an accredited financial institute guarantying full payment of the amount of the deferred capital facility charge shall be filed with the Department of Planning and Zoning or his or her designee prior to the issuance of any permit.

#### Section 17.28.100 - ~~Permit Fees~~PENALTIES - ADJUSTMENTS - Payments.

- A. Where any assessment provided in Section 17.28.090 is imposed, annual installments shall be billed and payable immediately upon receipt of the bill, EXCEPT THAT FOR CAPITAL FACILITY CHARGES DUE AND OWING, UNDER 17.28.090(B), CHARGES MAY BE PAID PURSUANT TO AN APPROVED CAPITAL FACILITIES PAYMENT PLAN. If payment is not made within ~~ninety~~90 days after the billing, interest shall be added at the same rate as charged on delinquent real estate taxes. Any of the installments may be prepaid at any time.
- B. The installments, and the interest on the installments, constitute liens on the property charged until paid, and if any installment is not paid within ~~ninety~~90 days of its billing date, at the option of the Director of Finance, the entire unpaid balance shall be immediately due and payable. The lien of the unpaid installments shall be subordinate only to the lien of State, County and City taxes, and payment of the unpaid installments shall be enforced at the same time and in the same manner as the taxes. Upon the institution of any foreclosure or tax sale proceedings or title transfer by deed as a result of sale, with respect to a property subject to a lien for the installments, the unpaid balance immediately shall become due and payable.

#### C. CAPITAL FACILITIES PAYMENT PLAN

##### 1. ELIGIBLE PROPERTIES. PROPERTIES ELIGIBLE FOR PAYMENT UNDER AN APPROVED PAYMENT PLAN INCLUDE:

- a. THOSE LOCATED IN THE “SUSTAINABLE COMMUNITIES AREA” AS DESIGNATED BY THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE CITY COUNCIL; OR
- b. WHERE THE PRINCIPAL OFFICE OR BUSINESS IS PHYSICALLY LOCATED WITHIN THE ANNAPOLIS CITY LIMITS WITH NO OTHER NATIONAL HEADQUARTERS OUTSIDE THE CITY OF ANNAPOLIS; OR
- c. WHERE THERE ARE FIVE OR FEWER BRANCHES OR OUTLETS OF THE BUSINESS IN TOTAL, PROVIDED THE PRINCIPAL OFFICE IS WITHIN THE ANNAPOLIS CITY LIMITS; OR
- c. WHERE THE BUSINESS IS PRIVATELY-, EMPLOYEE-, COMMUNITY-, OR COOPERATIVELY-OWNED AND NOT PUBLICLY TRADED; OR
- d. WHERE THE BUSINESS PAYS FOR ALL OF ITS OWN MARKETING, RENT, AND OTHER BUSINESS EXPENSES WITHOUT ASSISTANCE FROM, OR PAYMENT TO, A CORPORATE HEADQUARTERS THAT OWNS ONE OR MORE SHARES IN THE APPLICANT'S BUSINESS; AND
- e. THE DECISION-MAKING AUTHORITY IS VESTED IN THE LOCAL BUSINESS OWNER AND IS NOT SUBJECT TO CONDITIONS DICTATED OR REQUIRED BY A NON-LOCAL DECISION-MAKING AUTHORITY.

2. **PAYMENT PLAN.** CAPITAL FACILITY CHARGES PAYABLE UNDER A PAYMENT PLAN SHALL BE PAID AS FOLLOWS: 40 PERCENT PRIOR TO THE ISSUANCE OF ANY PERMIT; 20 PERCENT PRIOR TO THE FIRST ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; 20 PERCENT PRIOR TO THE SECOND ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; FINAL 20 PERCENT PRIOR TO THE THIRD ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE.

3. **LIEN AGREEMENT.** A CAPITAL FACILITIES PAYMENT PLAN REQUEST TO THE FINANCE DIRECTOR SHALL BE ACCOMPANIED BY AN AGREEMENT SIGNED BY THE BUSINESS OWNER AND PROPERTY OWNER ESTABLISHING A LIEN ON THE PROPERTY IN FAVOR OF THE CITY. SAID LIEN SHALL REMAIN IN EFFECT UNTIL THE DEFERRED FEES HAVE BEEN PAID IN FULL.

4. **PAYMENT PLAN SCHEDULE - INTEREST.** DEFERRED CAPITAL FACILITY CHARGES SHALL ACCRUE INTEREST AFTER THE FIRST 12 MONTHS. INTEREST RATES SHALL BE ESTABLISHED ANNUALLY BY THE FINANCE DIRECTOR AND WILL BE BASED ON THE PRIME INTEREST RATE PLUS THREE PERCENT, EFFECTIVE JULY 1ST OF EACH YEAR. ANY FEES DEFERRED SHALL BE PAID AT THE INTEREST RATE IN EFFECT AT THE DATE OF AGREEMENT.

5. **PERMIT FEES - ESTABLISHED RATE.** APPLICANTS UNDER A CAPITAL FACILITIES PAYMENT PLAN SHALL PAY THE PLUMBING PERMIT FEES AT THE RATES IN EFFECT AT THE TIME OF THE SPECIAL EXCEPTION OR OTHER DEVELOPMENT REVIEW APPLICATION, RATHER THAN THE FEES THAT MAY BE IN EFFECT AT THE TIME THE PERMIT IS ISSUED.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect from the date of its passage.

**Explanation:**

UPPERCASE indicates matter added to existing law.

~~Strike through~~ indicates matter stricken from existing law.

Underlining indicates amendments.