

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1997 Legislative Session

Bill No. _____ CB-32-1997

Chapter No.

Proposed and Presented by _____ Chairman (by request - County Executive)

Introduced by

Co-Sponsors

Date of Introduction

BILL

AN ACT concerning

Shared Facilities

For the purpose of permitting shared water and/or sewerage facilities under certain circumstances, implementing bonding requirements for such facilities, providing for the enforcement of provisions concerning such facilities, and generally relating to shared facilities.

BY adding:

SUBTITLE 22A. SHARED FACILITIES.

Sections 22A-101, 22A-102, 22A-103, 22A-104, 22A-105,
22A-106, 22A-107, 22A-108, 22A-109, 22A-110,
22A-111, and 22A-112,

The Prince George's County Code
(1995 Edition, 1996 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 22A-101 through 22A-112 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 22A. SHARED FACILITIES.

DIVISION 1. GENERAL.

Sec. 22A-101. Definitions.

(a) As used in this Subtitle:

(1) **Approving Authority** shall mean the Prince George's County Health Department.

(2) **COMAR** shall mean the Code of Maryland Regulations.

(3) **Controlling Authority** shall mean a governmental body empowered by the County or a municipality to provide management, operation, and continuous preventive and corrective maintenance of a shared facility.

(4) **Developer** shall mean an individual, group, company or other legal entity that proposes to develop an existing subdivision or proposed subdivision for the purpose of constructing residential or nonresidential structures.

(5) **MDE** shall mean the Maryland Department of the Environment.

(6) **Recovery Area** shall mean an area reserved for the sole purpose of the installation of the initial and future sewage disposal systems.

(7) **Shared Facility** shall mean a water or sewerage system which serves more than one lot of land or more than one user on a single lot of land, and located on either individual lots or on parcels of property owned in common by the users or the Controlling Authority.

(8) **User(s)** shall mean residential or nonresidential units which are served by a shared facility.

(9) **WSSC** shall mean the Washington Suburban Sanitary Commission.

DIVISION 2. DESIGN, OWNERSHIP AND RESPONSIBILITIES.

Sec. 22A-102. Purpose.

The purpose of this Subtitle is to protect the public health, safety and welfare by establishing requirements and procedures for shared facilities in the County, in accordance with the provisions of COMAR 26.04.05.

Sec. 22A-103. Components of Shared Sewage Disposal Facility; standards; other regulations.

(a) The shared sewage disposal facility may consist of, but shall not be limited to:

(1) The septic tank inlet, including the inlet tee or baffle;

(2) The septic tank;

(3) All piping connecting the septic tank to the pump chamber and/or the main header line;

(4) The pump chamber, including where applicable, the effluent pumps, and all valves, pipe and pipe fittings associated with the pump chamber;

(5) All force mains and manholes, where applicable;

(6) All mainline collection sewers and appurtenances up to, and including, the soil absorption system; and

(7) All electrical, mechanical and other systems and controls used to operate and/or maintain the shared sewage disposal facility.

(b) The following design and construction standards are applicable to all shared sewage disposal systems:

(1) The design and construction of shared sewage disposal facilities shall be consistent with the requirements of Subtitle 22 of this Code and COMAR 26.04.02, 26.04.03, and 26.04.05.

(2) Groundwater discharge permits must be obtained from MDE for design flow in excess of 5,000 gallons per day.

(3) The shared sewage disposal facilities must be designed and constructed pursuant to approval by the approving authority and MDE. The controlling authority may offer design recommendations that could impact the operation of the shared facility.

(c) Shared sewage disposal facilities shall also comply with the provisions of Subtitle 22 of this Code, the Comprehensive Ten Year Water and Sewerage Plan for the County, COMAR 26.04.01, 26.04.02, 26.04.03, 26.04.04 and 26.04.05, and any applicable WSSC regulations.

Sec. 22A-104. Components of Shared Water Supply Facility; standards; other regulations.

(a) The shared water supply facility may consist of, but shall not be limited to:

(1) All wells, pumps, piping and valves associated with the operation of the water system;

(2) All pipes connecting the well to a pressure tank, storage tank, or auxiliary

pumping station;

(3) Pressure tanks, storage tanks, or any auxiliary pumping station;

(4) Any treatment systems outside of the structure being served; and

(5) All piping systems conveying water from pressure or storage tanks, water treatment units, or the well to the individual structure.

(b) The following design and construction standards are applicable to all shared water supply facilities:

(1) All wells are to be constructed in accordance with COMAR 26.04.04, entitled "Well Construction". All pipe construction not covered by COMAR 26.04.04 is to be designed and constructed in accordance with WSSC plumbing and gas fitting regulations.

(2) The shared water supply facilities must be designed and constructed pursuant to approval by the approving authority and MDE. The controlling authority may offer design recommendations that could impact the operation of the shared facility.

(c) Shared water supply facilities shall also comply with the provisions of the Comprehensive Ten Year Water and Sewerage Plan for the County, COMAR 26.04.02, 26.04.03 and 26.04.05, and any applicable WSSC regulations.

Sec. 22A-105. Fees.

All fees referenced in this Subtitle shall be proposed by the County Executive and adopted by resolution of the County Council sitting as the Board of Health.

Sec. 22A-106. Shared Facility Agreement.

(a) Prior to final record plat approval, the developer shall enter into a shared facility agreement with the approving authority in which the developer shall guarantee the construction of the shared facility in accordance with the approved construction plans and all applicable County and State regulations. The developer shall also provide, as part of the shared facility agreement, payment of the routine costs of the operation and maintenance fees for a period of one year.

(b) The shared facility agreement shall include a replacement bond posted by the developer of the project against post-construction system failure. The replacement bond shall be of a sufficient amount to replace the entire shared facility. This bond shall be in a form of

security deemed acceptable by the County Attorney. It shall remain in effect until such time that sufficient monies are available in the major replacement portion of the operation and maintenance fund, referenced below, to replace the shared facility. However, the replacement bond may be reduced by a proportional amount of the monies collected in the major replacement portion of the operation and maintenance fund.

(c) The shared facility agreement shall reserve the right of the approving authority to inspect the shared facility and the lot or parcel on which the shared facility is located. Additionally, the agreement shall reserve the right of the controlling authority to maintain, repair and/or replace all components or portions of the shared facility, including those lying within common or easement areas, in accordance with applicable law.

Sec. 22A-107. Ownership.

(a) Upon completion of the shared facility and its approval by the approving authority, the shared facility shall become the property of all the lot owners or their successor(s) or assignee(s) unless such rights are relinquished by deed to the controlling authority or the homeowners association. The relinquishing of the shared facility to the controlling authority must have the consent of all parties including the approving authority. Each lot owner shall, by deed, own an undivided interest in the shared facility and the land upon which it is located unless ownership is deeded to a homeowners association or the controlling authority. A homeowners association may have ownership of the shared facility provided that the deed converts ownership to the lot owners if the homeowners association is dissolved or determined by the approving authority to be ineffective in the administration of the shared facility.

Sec. 22A-108. Developers responsibility.

(a) The developer shall set aside an area of land that is sufficiently sized and suitable for sewage disposal and/or a water supply system. This area shall be dedicated to the lot owners or homeowners association as either open space or as an easement.

(b) The developer shall establish easements to encompass the well(s), septic tank(s), pump pit(s), and all piping used to carry the water supply to the individual lot and to carry effluent from the individual lot(s) to the sewage disposal area, as well as to provide access to

these facilities for maintenance purposes.

(c) The developer shall construct the shared facility system in accordance with plans and specifications approved by the approving authority and MDE and in accordance with the shared facility agreement.

(d) Prior to final plat approval, the developer shall post a performance bond with the County or other organizations approved by the County that will cover 150 percent of the anticipated construction cost of the shared facility.

(e) Prior to record plat approval, the developer shall contract the services of a controlling authority to operate and maintain the shared facility.

(f) To transfer ownership and responsibility of the shared facility the developer shall either:

(1) Create an incorporated homeowners association, and obtain all required approvals therefore, that would retain ownership by deed or easement of the open space and the shared facility contained within;

(2) Develop appropriate language as part of the deed of sale that would provide each lot owner an undivided interest or easement in the open space and the shared facility contained within; or

(3) Develop appropriate language as part of the shared facility agreement that would give control and ownership of the shared facility to the controlling authority. Under circumstances in which the shared facility is owned by the controlling authority, the developer shall disclose this information as part of the deed of each lot owner.

(g) The developer shall, as part of the deed and/or articles of incorporation, preserve the right of the approving and controlling authorities to inspect all components of the shared facility including all easements on common areas and residential lots.

(h) The developer shall execute and record in the land records of Prince George's County a declaration of covenants binding upon the developer and all subsequent property owners in the subdivision. This will include, when appropriate, the homeowners association and shall provide for:

(1) Restrictions on users' activities which may adversely affect the continued

functioning of the shared facility;

(2) A payment by each lot owner of an annual operations and maintenance fee to the County for the continued functioning of the shared facility .

(3) Restrictions of land use that will ensure that the recovery area remains undisturbed and free of permanent structures, easements, driveways, utility lines, or other physical structures that would prohibit the installation of future replacement systems.

Sec. 22A-109. Responsibilities of lot owners.

(a) It is the responsibility of each lot owner to prevent adverse impacts on the shared facility. If it is determined that the operation and/or maintenance of the shared facility has been adversely impacted by a lot owner's misuse or abuse of the shared facility, whether intended or not, the approving authority shall notify the lot owner in writing of the misuse and adverse impact(s) and require that such misuse or impact cease.

(b) Any adverse impact to the shared facility system not corrected by the specific lot owner in the manner directed by the approving authority shall be corrected by the controlling authority upon approval of the approving authority. The costs incurred, including, but not limited to, any administrative charges, engineering costs, costs accrued in correcting or repairing any adverse conditions, and the cost of pursuing legal enforcement, shall be reimbursed to the operation and maintenance fund by the lot owner. Reimbursement of costs are required whether or not the replacement bond is in full force and/or effect, or whether or not monies are available in the operation and maintenance fund.

(c) The lot owners are ultimately responsible for the shared facility. If ownership of the shared facility is transferred, the lot owners are still responsible for the covenants specified in this document.

(d) The lot owners shall be responsible for payment of electrical costs associated with pumps serving their individual dwellings and shall notify the controlling authority in the event of a system alarm or a power failure.

Sec. 22A-110. Responsibilities of the Approving Authority.

(a) It is the responsibility of the approving authority to evaluate the property proposed for a shared facility, approve or deny plans for construction of the shared facility, issue

construction permits, inspect and approve the installation of the facility, conduct inspections of the shared facility, review maintenance and operational records of the controlling authority, and perform other duties relating to the facility as deemed necessary by the Health Officer and/or the Board of Health.

Sec. 22A-111. Responsibilities of the Controlling Authority.

(a) It is the responsibility of the controlling authority to operate and maintain shared facilities in accordance with all applicable regulations. These responsibilities include but are not limited to:

(1) Periodic monitoring of the facility to include sampling.

(2) Periodic septage removal through the use of a licensed scavenger.

(3) Repair and/or replacement of the equipment and materials associated with the shared facility. Whenever possible, the controlling authority shall notify the approving authority and either the individual lot owners or the homeowners association prior to any repair or replacement that would entail the use of the major replacement fund of the operation and maintenance fund. If notification cannot be made prior to the repair of the facility, it is the responsibility of the controlling authority to inform the approving authority and either the individual lot owners or the homeowners association no later than one working day following the repair. No replacement of major components of the shared facility can be made without prior approval of the approving authority.

(4) Maintaining records of all operations and maintenance activities performed for each shared facility. These records shall be made available to the approving authority and all interested parties.

(5) Providing cost information to the individual lot owners or the homeowners association of any major repair or replacement of the shared facility that requires funding from the major replacement portion of the operation and maintenance fund.

(b) The controlling authority may offer shared facility design recommendations to the approving authority.

Sec. 22A-112. Charges associated with Shared Facilities.

(a) Requirement to Pay Annual Operation and Maintenance Fee - After the shared facility

has been constructed and the facility approved by the approving authority, each lot owner using or expecting to be served by a shared facility shall pay the Prince George's County Office of Finance an annual fee for the operation and maintenance of the shared facility. The Office of Finance will manage these fees through an operation and maintenance account for the shared facility. Separate subaccounts will provide for routine costs and major replacement costs associated with a particular shared facility. Monies from these accounts will be transferred from the Office of Finance to the controlling authority as specified through a written contract between the controlling authority, the County, and the lot owners or homeowners association.

(b) The annual operation and maintenance fee shall provide for:

(1) Routine costs - an amount to cover the controlling authority's costs of operation and maintenance of the shared facility, including but not limited to:

(A) Periodic inspections of the facility;

(B) Septage removal in accordance with Subtitle 22 and appropriate State regulations;

(C) Repair/replacement of tanks, pumps, piping and electrical systems;

(D) Minor repair of the shared facility;

(E) Administrative costs including legal costs associated with the operation and maintenance of the shared facility; and

(F) Payment of electrical costs which are not the responsibility of the lot owner.

(2) Major Replacement Costs - Prior to the release of the Developer's Replacement Bond, sufficient monies must be available in the major replacement subaccount of the operation and maintenance fund to replace all of the shared facility. A portion of the replacement bond can be released provided that a proportional amount of money is available in the major replacement subaccount of the operation and maintenance fund. It is anticipated that this fund would be used to replace drainfields, large pump systems and other mechanical parts of the shared facility system when it has been determined that the damaged portion of the system was not caused by a specific user's neglect. If the damage to the system is caused

by misuse or abuse and the fund is used to correct the problem, then the user(s) responsible shall reimburse the fund for the total cost of the repair, or replacement, including any administrative cost. If there are insufficient funds in the account to pay for any major repairs of the shared facility, the controlling authority is authorized to use monies from the routine costs subaccount of the operation and maintenance fund. Reimbursement to the operation and maintenance fund account will be paid by a special assessment.

(c) Determination of Amounts - The controlling authority shall prepare annually a cost analysis for operating and maintaining the shared facility for the next fiscal year based on the current operating cost as well as any projected costs for the next fiscal year. Any surplus/deficit, which the controlling authority projects for the current fiscal year, shall be incorporated as part of the cost analysis to ensure a balanced budget. Lot owners, at their discretion, have the option of placing any projected surplus in the major replacement portion of the operation and maintenance fund. Part of the cost analysis will include any anticipated increases in the major replacement portion of the operation and maintenance fund due to inflation or to the increased cost of materials.

(d) Applicable Parties . The annual operation and maintenance fee associated with a shared facility applies to each property owner or assignee regardless of the occupancy status of the lot that is served by the facility.

(e) The initial operation and maintenance fee shall be paid prior to commencing operation of the shared facility.

(f) Billing and Penalties. The Department of Assessment and Taxation shall bill the property owner for the annual operations and maintenance fees. If the operations and maintenance fee is not paid within sixty days, the Department of Assessment and Taxation may add a penalty of fifty dollars to the unpaid amount. Continued failure to pay the operation and maintenance fee can result in a lien being placed against the property.

SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality

shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this ____ day of _____, 1997.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.