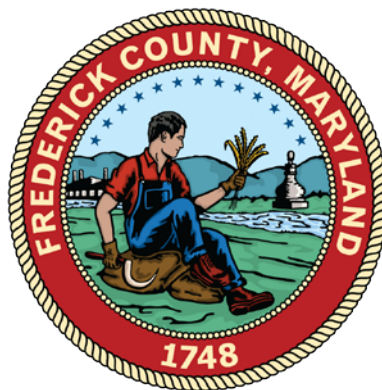


**FREDERICK COUNTY, MARYLAND**

**WATER AND SEWER**

**RULES AND REGULATIONS**



**Division of Utilities and Solid Waste Management**

4520 Metropolitan Court  
Frederick, Maryland 21704  
(301) 600-1825

Changes to these Water and Sewer Rules and Regulations were last approved effective as of September 12, 2013. On March 12, 2015, a duly advertised Public Hearing was held in accordance with §2-13-30 of the Code of Public Local Laws for Frederick County to hear comments on the proposed changes to these Rules and Regulations. Therefore, these Rules and Regulations are hereby approved and effective as of the

1<sup>st</sup> day of May, 2015

Jan H. Gardner  
Jan H. Gardner, County Executive

4-6-2015  
Date

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**SECTION 1. GENERAL REQUIREMENTS**

- A. These Regulations are authorized and adopted under Chapter 2-13 of the Frederick County Code for the purpose of carrying out the intent and purpose of that section.
- B. Frederick County, Maryland (“the County”) shall have the right to: determine what community facilities are interim or permanent; determine when the community facilities shall be installed, modified, enlarged, or abandoned; enter into contracts concerning how and by whom the proposed facilities shall be financed; and determine who shall connect to the community facilities.
- C. The County, at the request of a municipality, may provide water or sewer service to part or all of the municipality.
- D. The County shall determine the feasibility of a project, the manner in which service may be obtained, and the estimated cost of such service.
- E. Funds for the design, installation, etc. of water and sewer facilities will be sufficient to cover all costs as determined by the County.
- F. If a project is to receive private funding, a Public Works Agreement must be signed with the County before the project can become part of the County Capital Improvements Program.
- G. All necessary funds, other than grants and water and sewer bonds, shall be guaranteed to the County prior to the initiation of each phase of a project.
- H. All community water and sewer facilities, excluding facilities owned and operated by the incorporated municipalities, shall be designed and constructed to the specifications of the County.
- I. Except when using a Public Improvements Agreement, all water and sewer facilities, public or private (excluding facilities owned by incorporated municipalities), shall be inspected by the

County.

- J. Privately owned water or sewer systems serving more than one (1) residential, commercial, industrial or institutional property are not permitted.
- K. Developments that provide community water service are required to provide water storage for fire flow purposes according to the Design Manual for Water and Sewer Facilities.

## SECTION 2. DEFINITIONS

- A. For the purposes of these Rules and Regulations, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

**Building Sewer** - That part of the drainage system which extends from the end of the building drain and conveys its discharge to County-owned, privately-owned, or local municipally-owned sewer system.

**Building Water Service** - The pipe from the County-owned, privately-owned, or local municipally-owned water main or other water distribution system of the building served.

**Capacity Fee(s)** –Fee(s) paid to secure capacity from a water or wastewater system. Also referred to as “connection fee(s)” or “tap fee(s)”.

**Capital Expenditures** - The costs for providing a new community system, improvements to an existing community system, or acquisition of an existing system.

**Classification** - All land within a service area is classified into one of four types, namely: agricultural, small acreage, industrial or business (commercial), and residential. These main classifications may be further subdivided.

**Cost** - Cost as applied to water and/or sewerage systems may include any or all of the following:  
The cost of constructing any such system, the cost of improvements, the cost of all lands,

properties, rights, easements, franchises and permits acquired, the cost of all machinery and equipment, financing charges, bond issue, expenses, interest on bonds prior to and during initial construction or during construction of improvements; and for not more than one year after completion of construction, the cost of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expense necessary or incident to the determining of the feasibility or productivity of any such improvements or construction, actual administrative expenses attributable to the particular system indicated in the application and as may be necessary or incident to the financing authorized, to the improvement or construction of the system, and the placing of the same in operation. Any obligation or expense incurred by the County prior to the issuance of any bonds for engineering studies, estimates of cost and revenue, and for other technical or professional services, may be regarded as part of the cost of any such system.

**County** – Frederick County, Maryland, a body corporate and politic, including, as applicable, its County Executive, County Council, employees, agencies, boards, and commissions.

**Development Area** - The area owned or controlled by the Property Owner in which the wastewater and/or water system is to be installed, and which is the subject of an application for service.

**Division** – Frederick County Division of Utilities and Solid Waste Management.

**Drainage Area** - The area as designated in the latest revision of the County Water and Sewerage Plan in which the Property is located, which is the subject of an application for service.

**Drainage Fixture Unit** - See Fixture Unit.

**Dwelling Unit** - A building or portion thereof occupied or intended to be occupied exclusively

for residential purposes by one family or housekeeping unit.

**Equivalent Dwelling Unit** - A commercial or other unit which consumes or discharges the equivalent of one dwelling unit.

**Fixture Unit** - Value assigned to measure potential use/discharge of various types and sizes of plumbing fixtures; ten (10) fixture units equal one (1) Equivalent Dwelling Unit. See Appendix B.

**Full-Time Water and/or Sewer Inspection** - This type of inspection will include the following:  
Excavation of the pipe trench from the system connection itself to the dwelling, the trench foundation, the proper line and grade, the proper materials and workmanship, the backfilling and compaction of the trench to its full height.

**Inspection Agreement** – Agreement between the County and a Property Owner to provide on-site water and/or sewer construction inspection. This type of inspection typically includes proper materials and workmanship, the backfilling and compaction of the trench to a point two feet above the pipe. Formerly known as a “modified public works agreement”.

**Line** - Refers to water or wastewater collector or transmission conduit.

**Lot** – See Property.

**Planning Commission** - The Frederick County Planning Commission.

**Property** – Lot, parcel, or tract or similar land area; usually to which water and/or wastewater service is or will be provided.

**Property Owner** - A person, persons, partnership, firm, corporation or cooperative enterprise that owns the Lot or Property to which community water and/or sewerage system service is or will be provided. Property Owner also includes duly authorized agents, heirs, successors and assigns of the Property Owner.

**Public Improvements Agreement (PIA)** – An agreement entered into between the County and a Property Owner, where the Property Owner agrees to enter into, and manage, a contract for construction of community water and/or wastewater facilities. Under the PIA process, the Property Owner may designate a third party firm (approved by the Division) to enter into a contract with the County for inspection of construction of the facilities, at the Property Owner’s expense.

**Public Works Agreement (PWA)** - An agreement entered into between the County and a Property Owner, where the Property Owner agrees to provide payment to the County for construction of the community water and/or wastewater facilities. Under the PWA process, the County enters into, and manages, the construction contract and also provides all inspection of construction of the facilities.

**Pumping Station** - Pumping units with appurtenances and structures to convey water or sewage under pressure to transmission or interceptor facilities.

**Service Charge** - Those costs for a system directly attributable to and directly related to the volume of water used by or the volume of sewage discharged by the user. Also known as the “user charge” or “usage charge”.

**Tap Fee(s)** – See Capacity Fee(s).

**Wastewater (or waste water)** – Liquid and water-carried domestic, non-domestic and industrial wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated. Also referred to as “sewage”.

**Wastewater System** - Any collection of devices and systems used in the collection, storage, treatment, recycling and reclamation, etc., of municipal sewage and industrial wastes as defined in the federal Clean Water Act (33 USC §1251 et seq.). These systems may



include, but are not limited to, the sewers, pipes, equipment, the treatment plant (or facility) and the sludge handling equipment. This term also shall include the agency or person authorized to operate such facilities in accordance with the Maryland Department of the Environment and refers to wastewater treatment facilities owned and operated by the County. Collectively this explanation may also be known as “publicly owned treatment works” (POTW).

**Water** - Drinking water or potable water, which meets or exceeds Safe Drinking Water Act standards, and includes typical uses associated with non-potable purposes such as toilet flushing, washing and landscape irrigation.

**Water System** - Any collection of devices and systems used in the distribution, storage, treatment, etc., of water defined in the federal Safe Drinking Water Act (33 USC §300f et seq.). These systems may include, but are not limited to, the transmission mains, pipes, equipment, pumping facilities, storage (tanks), and the treatment plant (or facility). This term also shall include the agency or person authorized to operate such facilities in accordance with the Maryland Department of the Environment and refers to water treatment facilities owned and operated by the County.

### **SECTION 3. THE ESTABLISHMENT OR EXTENSION OF WATER OR SEWER SYSTEMS - GENERAL**

- A. Before the County will consider the establishment or the extension of a water or wastewater system to a Property, the Property must have the proper classification in the Frederick County Water and Sewerage Plan.
- B. The County will not consider an application for water or wastewater service if the application requires service greater than allowed by the zoning then applied to the Property.
- C. The Property Owner shall enter into a Public Works Agreement (PWA) or a Public

Improvements Agreement (PIA) with the County to cover all particulars relevant to construction of the proposed community water and wastewater facilities. Certain water or wastewater facilities, e.g., pumping stations, treatment plants, etc., requiring expansion that increases the capacity of the facility may not use a PIA without the approval of the Director.

D. The Property Owner shall guarantee payment of all costs that are to be levied against the Property Owner for provision of service not covered by Section 4 of these Rules in a manner approved by the County. Said costs shall:

1. Include a contingency of fifteen percent (15%) of the construction cost as determined by the contract award, to permit minor modifications and assure completion of the proposed project. Any unused funds held by the County in accordance with a Public Works Agreement shall be returned to the Property Owner at the completion of the construction for the particular project.
2. Be reduced by the amount of any federal and state grant monies received by the County for the specific project.
3. Include advance payment of the estimated cost of future abandonment of any temporary facilities, provided, however, that any funds deposited with the County for such purpose in excess of the actual cost of said abandonment shall be refunded to the Property Owner. When using a PWA, payment will be made only upon verification and application to the County by the party entitled thereto.

E. Construction of proposed water and/or wastewater facilities:

1. Will be sized to serve the drainage area or system area in accordance with Division requirements or the Water and Sewerage Plan if indicated in the Plan; and
2. Will be funded by the Property Owner to the extent of the requirements for the proposed

development of the Property. The cost of oversizing of systems may be borne by the County or other users.

- F. The Property Owner shall design or have designed the community water and/or wastewater facilities and shall attempt to obtain all required approvals, permits, and off-site rights-of-way, and easements.
- G. The County recognizes the right of the Property Owner to design and construct off-site facilities. Where it is necessary to procure property or easements which are off-site rather than on a site controlled by the Property Owner, the County will aid in said procurement as permitted by law, where the same is deemed to be for a public, rather than private, purpose.
- H. The Property Owner shall provide to the County all required on-site properties and easements prior to the County Executive's execution of a PWA or PIA.
- I. If using a Public Works Agreement, the County will administer all contracts and inspect all construction at the expense of the Property Owner.
- J. Whether a Public Works Agreement or a Public Improvements Agreement is used, all design and construction shall be in accordance with the latest approved "Frederick County Plans and Specifications", "Special Provisions", and "Standard Details" for water and wastewater construction as used by the Division, in addition to the "Design Manual for Water and Sewer Facilities."
- K. The Director may approve design and construction contracts with "Special Provisions" which address unique, unusual, or special conditions found within the area where work is to be performed.

**SECTION 4. THE ESTABLISHMENT OR EXTENSION OF WATER OR SEWER SYSTEMS - DESIGN AND CONSTRUCTION**

A. When using a Public Works Agreement (PWA):

1. The County will approve the design and supervise construction of new facilities or extensions or additions to existing facilities that are permitted to be designed and constructed by the Property Owner.
2. After approval by the County of the final plans, and prior to the award of a contract for the construction of the facilities, the Property Owner and the County will enter into a PWA, guaranteeing that all applicable costs will be borne by the Property Owner.
  - a. The PWA will include a guarantee covering the actual operating cost of the new system for the first two years.
  - b. Gross revenues received from users during the first two years will reduce the guarantee required to be on hand.
3. The Property Owner will be responsible for paying the difference, if any, between the revenues and the actual cost for operating the system until such time as the system meets one of the following requirements:

<u>% of Capacity Used</u>	<u>For System with a Maximum Design Capacity of</u>
70	.050 MGD
50	.100
40	.200
30	.250

If, in the sole opinion of the County Executive, the system is financially able to become a part of the County consolidated water and wastewater system:

- a. The minimum service charges to the owners of property serviced by the system shall

be no lower than that charged to users in the County consolidated water and wastewater system.

- b. The Property Owner may choose to subsidize part of the operating cost of the system beyond the minimum amount required above.
  - c. The Property Owner's contributions to the system operating budget will not be used to recover costs for future capital improvements, oversizing of facilities to the benefit of other property owners or the County, or for other expenditures not usually a part of the operating budget of the County water and wastewater system.
4. The County will establish a system budget and set service charges prior to the occupancy of the first structures in the development.
  5. The Property Owner must construct all water and sewerage facilities in accordance with the approved final plans, specifications, and the Frederick County Code. The Division may, at the request of the Property Owner, advertise and award contracts for construction of the proposed facilities in accordance with approved final plans, specifications, and the Frederick County Code. The inspection of all construction shall be performed by a representative of the County.

B. When using a Public Improvements Agreement (PIA):

1. The County will approve the design and supervise construction of new facilities or extensions or additions to existing facilities.
2. The Property Owner and the County shall enter into a PIA, which shall specify that the Property Owner is responsible for management of the construction of the improvements, and that the Property Owner shall ensure that all water and sewerage facilities are constructed in accordance with the approved final plans, specifications, and the Frederick

County Code.

3. The PIA shall also require that the Property Owners shall designate a third party inspection firm to enter into a contract with the County, at the Property Owner's sole expense ,to inspect, witness and verify that the improvements are constructed in accordance with all local, state and federal requirements, including permit requirements, all County specifications, and those specifications set forth in the Plans.
  4. The Property Owner shall provide the County with a detailed unit price estimate of the anticipated costs (including inspection costs), which, upon approval by the County, will be used to determine the value of required security (which may be in the form of surety or performance bond(s), letter(s) of credit approved by the County Attorney, and/or escrow funds) which the Property Owner shall post for the project.
  5. The County shall have the right to inspect any material or equipment at any stage of development or fabrication, and shall be allowed access to the project site at all times for inspection or observation. The Property Owner shall notify the County in writing, 24 hours prior to the event, so that the County may observe and witness certain tests as described in the PIA.
  6. The Developer shall warrant all improvements for materials, equipment and workmanship, where applicable, for a period of one (1) year, as detailed in the PIA.
- C. The following apply to both PWAs and PIAs:
1. Facilities designed by the Property Owner shall be designed by a Maryland Registered Professional Engineer of the Property Owner's choosing and approved by the County.
  2. The Property Owner shall submit preliminary documents, including but not limited to plans, specifications, and design calculations to the County for review and approval.

3. The County will review the preliminary documents and notify the Property Owner in writing of its evaluation of the proposed project within forty-five (45) days of receipt.
  4. The Property Owner shall submit to the County completed final plans and specifications that conform to the County's regulations for County approval.
- D. On-site construction cost recovery policy for funds advanced by the Property Owner: Funds advanced or paid by the Property Owner for construction of lines and/or facilities required to serve the Property will not be eligible for recovery.
- E. Off-site construction cost recovery policy for funds advanced by the Property Owner:
1. Funds advanced or paid by the Property Owner for construction of lines or facilities required to serve the Property will not be eligible for recovery.
  2. If a Property Owner pays the costs of the design and construction of a system, improvement, facility, or line extension which:
    - a) was contained in the current approved County Capital Improvement Plan (CIP); and
    - b) was designated for Division funding, not developer funding, in the approved Division CIP; and
    - c) was previously included in the computation of Capacity Fees adopted by the County Executive and collected by the Division; and the Division completes a fiscal analysis which demonstrates a financial benefit from the facilities to the County Water and Sewer Enterprise fund, taking into account:
      - (i) the cost to the Division to operate and maintain the infrastructure sooner than planned; and
      - (ii) the consumption of capacity by the Property Owner's proposed use and the fiscal impact that may result due to the need to accelerate other CIP

project(s) to provide additional capacity;

then upon verification by the County Finance Division of the fiscal benefit to the Water and Sewer Enterprise fund, the Director of the Division may recommend to the County Executive what, if any, appropriate credit against the water or wastewater Capacity Fees to be paid by the Property Owner may be included in a proposed Public Works Agreement (or similar agreement) between the Property Owner and the County. The total of the credits allowed cannot be greater than the amounts approved in the Agreement or exceed the amount of funds advanced by the Property Owner. The Property Owner is not guaranteed full reimbursement of costs.

**SECTION 5. BENEFIT ASSESSMENTS FOR PUBLIC WATER AND SEWER FOR SUBDIVISION LOTS WITHOUT GUARANTEES**

- A. The provisions of this Section apply only to lots in recorded subdivisions which do not have a guarantee in place to provide for public water and sewer facilities, which lots cannot be fully developed without public water and sewer.
- B. With the approval of the Director of the Division, whenever the owner of one or more lots wishes to extend the public water and/or wastewater line to the owner's lot or lots, the owner shall pay all of the initial cost for the extension of the County-owned water and/or wastewater lines to service the lot or lots. However, the owner of each lot that can be directly serviced due to the extension of the main water and wastewater lines shall be assessed a proportionate amount to help pay for the needed extensions of those lines.
- C. Upon approval and under the direction of the Division, the procedure will be as follows:
  - 1. Main water and wastewater lines and house laterals will be installed and initially paid for by the owner of the lot or lots as part of the cost of construction.



2. Upon conditional acceptance of the lines by the Division, the total cost of the project would be finalized. Eligible costs will include construction of water and wastewater lines and laterals, surveying, engineering design, Letter of Credit, and inspections. The owner of the lot or lots must provide adequate proof of expenses for inclusion in the calculation.
3. A per lot assessment will then be calculated based on the number of lots eligible to be directly served due to the extensions to the owner's lot or lots.
4. Notice will then be sent to the last known address of all affected lot owners, notifying them of a public hearing to attempt to legally establish the benefit assessment for each lot.
5. After the benefit assessment is set, another notice will be sent to each affected lot owner giving them two options:
  - a. To pay the entire assessment without interest within thirty (30) days of this notice;  
or
  - b. To pay the assessment through ten (10) annual equal payments with interest. The entire remaining amount may be paid off any time sooner than ten (10) years with interest only to date of final payoff. Delinquent interest would be computed on all unpaid bills after thirty (30) days. These annual assessments shall be a first lien on the Property against which they are assessed subject only to prior State and County taxes.
- D. Oversizing of water and/or wastewater lines shall be considered as a public service and will be funded from the Water and Sewer Enterprise fund.
- E. In addition, for each presently recorded, undeveloped subdivision lot, without guarantee for water and sewer, there shall be an additional One Hundred Fifty Dollar (\$150.00) fee payable

at the time of connection to the water system to cover the initial cost of fire hydrants to be provided on that system.

- F. The original owner of the lot or lots, who paid the initial costs for the extensions of the water and/or wastewater lines to the property as provided above, will be reimbursed proportionately as the Division collects these benefit assessments over the above-mentioned ten (10) year period. However, the County shall not be responsible to the original owner of the lot or lots for any of these reimbursements or interest thereon, other than relaying the payments to the original owner as provided above.

#### **SECTION 6. FAILING WATER OR SEPTIC SYSTEM**

- A. In the instance where there is a Property with a failing water or septic system as verified by the Frederick County Health Department, a line may be extended to service the Property under the following provisions:
1. The construction cost of the first 100 feet or 50% of the construction cost of the public portion of the line, whichever is least, will be borne by the Capacity Fee fund of the system.
  2. The above method of allocating construction costs for extending a line does not apply to the construction of pumping stations or to facilities other than lines.
- B. Existing structures that experience well and/or septic system failure, or existing structures served by private water, sewer, well or septic systems that are required to connect to County-owned water and wastewater infrastructure, may be eligible for an extended payment plan that will allow the Property Owner to pay the water and/or wastewater Capacity Fees over a ten (10) year period of time at the interest rate set by the County Executive. The provision of

the ten (10) year payment plan option is limited to existing structures only, and will require the approval by the County Executive, and be payable in full upon the transfer of the Property.

#### **SECTION 7. CONSTRUCTION INSPECTION AND OVERHEAD FEES**

- A. When using a Public Works Agreement (PWA), a Property Owner pursuing construction of water or wastewater lines or facilities must pay actual construction inspection fees and charges. The initial construction inspection and overhead fee deposit must be provided by the Property Owner in advance of the award of the construction contract and will be estimated based on a per diem amount times the project duration in days. The final construction inspection and overhead fee and charges will be determined based on actual expenses charged to the project and reconciled at the conclusion of the construction. If the final construction inspection and overhead expenditures exceed the initial inspection and overhead fee deposit, the Property Owner must provide the County with the additional funds required prior to approval and acceptance of the facility(ies). If the final construction inspection and overhead expenditures are less than the initial construction inspection and overhead fee deposit, the County will refund the excess amount to the Property Owner. The construction inspection and overhead fee is to cover expenses for inspection of construction, administrative, legal, and consultant services directly related to accomplishing the construction of the lines or facilities. It is the intent of this Section that the fees described herein are to be applied to all construction contracts whether the contracts are entered into by the Property Owner or by the County on behalf of the Property Owner requesting service.
- B. When using a Public Improvements Agreement (PIA), the Property Owner shall pay to the County, in advance, a design review fee for review of the design plans for the improvements

in accordance with the appropriate fee schedule. The Property Owner shall also pay to the County a fixed fee to cover the County's costs for review and oversight of the construction of the improvements as provided in the PIA, including but not limited to, review of contractor's and inspector's reports, and observation of the tests further described in the PIA. In addition, the Property Owner shall pay to the County the cost of the approved scope of services under the contract between the inspection firm and the County, plus 15% for contingencies. Notwithstanding the above, the Property Owner shall be responsible for all costs involved with inspection of the improvements.

#### **SECTION 8. INSPECTION OF CONNECTIONS TO THE SYSTEM**

- A. If the Property is to be connected to a County-owned water and/or wastewater system, the Property Owner must execute a Service Agreement with the Division and pay the appropriate Capacity Fee calculated by the County. If the Property is to be connected to a County-owned water and/or wastewater system that is within the municipal boundary of Frederick City, then the Property Owner must also pay the Division for inspection of the connection.
- B. The County Plumbing Code provisions shall apply to water and wastewater line construction from the property line to the structure.
- C. Type of Inspection:

If, at the discretion of the County, it is determined that full-time on-site water and/or wastewater construction inspection is needed for privately owned water infrastructure or if the Property that is to be connected lies within a municipality where the County has agreed to perform inspections, an Inspection Agreement shall be prepared and executed. The Inspection Agreement shall be accompanied by a contractor's proposal/time schedule and the

construction inspection and overhead fee deposit (estimated based on a per diem amount times the duration of construction, pursuant to Section 7). The final adjustment of the construction inspection and overhead fee shall be determined based on actual expenses charged to the project and reconciled as specified in Section 7.

#### **SECTION 9. CONNECTION TO THE WATER OR SEWER SYSTEM**

- A. All Properties within the designated service area of a water or wastewater system shall connect to the system and pay such costs as required by Chapter 2-13 of the County Code and these Regulations, except parcels upon which a residential structure sits more than 200 feet from the system transmission or distribution line.
- B. The above exemption is to be applied only to residential structures issued a building permit before the Property was placed in an area classified as S-4, 3, 2 or 1; or W-4, 3, 2 or 1.
- C. When any water or wastewater system or part thereof is declared by the County to be complete and ready for the delivery of water or the reception of sewage, every abutting property owner, after due notice by Certified Mail, shall make a connection of all spigots, hydrants, toilets, and waste drains within 120 calendar days from the date said system is declared ready for service.
- D. When a lot is created within the service area after a system is declared ready for service, the Property Owner shall be responsible for paying all costs of connection to the system, including the cost of bringing the service to the Property line.
- E. When a Property has wastewater service, the Property Owner may not connect sump pumps, roof leaders, roof drains or area drains, or any other device that diverts storm water into the sewage system. If such connections to the wastewater system are found, they shall be

immediately disconnected.

#### **SECTION 10. ALLOCATION OF CAPACITY**

- A. General Policies - The Division's general policy is to allocate the water and wastewater capacity on a "first-come, first served" basis. In addition, the Director of the Division shall reserve fifteen percent (15%) of the capacity of each water and wastewater system for public buildings and health hazard areas.
- B. Allocation of Capacity (in the event of scarcity) - It is necessary to have a procedure where sewer or water connections, because of their scarcity within a system, must be allocated in a manner that provides for an equitable distribution based upon the County's growth and fiscal management policies.
  - 1. If a Property is subdivided for single family attached or detached residences within a water and/or wastewater service district, each lot created will be allocated water and/or wastewater capacity subject to requirements in this subsection B. If a Property is subdivided for multi-family, commercial, or industrial use, each lot created will be allocated water and/or wastewater capacity equal to two (2) EDUs and subject to the conditions stated in this subsection B. The Capacity Fees must be purchased, guaranteed by money in escrow, or guaranteed by a Letter of Credit, prior to the recording of the subdivision plat. If not purchased prior to recordation, then the lot owner must pay the Capacity Fees within thirty (30) days of the recording of the plat.
  - 2. All allocations of capacity are to be assigned to the Property and remain with the Property unless they are placed back into the allocation pool.
    - a. Allocated capacity shall be used within two (2) years unless a Multi-Year Tap Agreement is in effect, in which case the terms of that Agreement apply. Capacity

for Commercial/Industrial or Institutional uses that has not been used within the above stated two (2) year period may be rescinded by the County Executive. The Division will notify the County Executive of any unused capacity after the two (2) year time period and the Division's recommendation concerning the unused capacity.

- b. The Property for which capacity has been allocated will be assessed the minimum water and/or wastewater charge beginning one (1) year after payment of the Capacity Fee if a physical connection to the water and/or sewage system has not been made.
  - d. Capacity rescinded or returned by the holder of record will be returned to the allocation pool.
3. Preference on allocations will be given to projects that have received allocations in previous years and can demonstrate that the connections are being used in a timely manner.
  4. The County may enter into Multi-Year Tap Agreements to assure continuity of a project. All Multi-Year Tap Agreements must be approved by the County Executive. The County Executive may enter into a Multi-Year Tap Agreement with a Property Owner and request an irrevocable Letter of Credit for at least fifty percent (50%) of the cost of the capacity to be allocated. When the allocation of capacity is made as part of the expansion or establishment of a water or sewage treatment system, the County will require that the recipients of the allocation enter into a Public Works Agreement or a Public Improvements Agreement which may include a Multi-Year Tap Allocation Schedule. The Public Works Agreement must be secured by a Letter of Credit or cash deposited with the

County to assure that the cost of the Property Owner's share of the capacity is guaranteed to the County. If using a Public Improvements Agreement, the allocation of capacity must be secured by a Letter of Credit or cash deposited with the County while a surety bond may be used to secure certain other costs associated with the PIA, with the exception of the inspection costs that are covered by the contract between the inspection firm and the County. The Public Works Agreement or Public Improvements Agreement and the financial guarantee(s) will be required after the design of the water and/or sewage facilities has been approved by the Department of Health and Mental Hygiene and prior to bidding the construction for the aforesaid facilities. No allocation of capacity is complete without the approved Public Works Agreement or Public Improvements Agreement and financial guarantee(s), and no Capacity Fees will be collected or capacity permits issued without the aforesaid agreements being approved by the County Executive.

5. The Property Owner has thirty (30) days from the time of official written notification of the allocation of capacity for the Property to purchase the capacity allocated for the first calendar year. Failure to purchase this capacity within the allotted time may void the Agreement or the County may choose to draw on any financial guarantees that have been established between the Property Owner and the County.
6. Allocations will only be made for Properties that have met all of the following requirements:
  - a. Zoning of the Property has been completed.
  - b. The Property has a sewer classification of S-4, S-3, S-2, or S-1, and/or a water classification of W-4, W-3, W-2, or W-1.



- c. Where necessary, the Property Owner must have received a commitment for water or sewer service from the proper utility.
- d. Residential property: The property has an approved preliminary plan; or, if only a single lot, has an approved site plan, or recorded plat, whichever will best establish the number of equivalent units for allocating capacity.
- e. Industrial/Commercial property: A commercial or industrial property will be allocated capacity on the basis of the use identified for the property. Any capacity above this number will be based upon the actual user's plans for construction.

C. Leased Capacity

- 1. The Division shall reserve a finite amount of water and sewer treatment capacity from its Potomac River water system and the Ballenger-McKinney wastewater system to facilitate the leasing of water and sewer treatment capacity from these systems. This reservation shall not exceed 1.0 million gallons per day (average daily demand) from each system.
- 2. Subject to the availability of water and sewer system capacity from the systems described subsection 1 above, and the provisions in subsection I of Section 11 below, certain commercial Manufacturing Facilities may be eligible to lease water and sewer system capacity in lieu of purchasing the capacity and having it permanently allocated to the property. The terms of such capacity leases shall be defined by the Division based on the guidelines for water and sewer capacity leases detailed in Appendix A.<sup>1</sup>
- 3. A review of the water and sewer infrastructure may be required prior to purchasing leased capacity to ensure conveyance adequacy, i.e., distribution, collection, pumping

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<sup>1</sup> Potential lease of water and sewer capacity is limited to those Customer/Business types that are Manufacturing Facilities in Appendix B and have defined production-based water and sewer capacity requirements beyond the capacity associated with the building's plumbing fixture units.

stations. Any conveyance infrastructure improvements necessary for adequacy must be designed, constructed, and operational before a building permit is issued.

#### **SECTION 11. CAPACITY FEES**

- A. The rates for connection to the systems will be fixed and collected and from time to time revised or amended by the County Executive (see Appendix A for the current Capacity Fees).
- B. Except as provided herein, Capacity Fees are due and payable prior to issuance of (1) a building permit for new construction, or (2) a plumbing permit for modifications to an existing structure.
- C. Commercial and Other Connections:  
  
Initial computation of Capacity Fees will be based upon plumbing plans and riser diagrams using the fixture unit chart and the capacity adjustment factors, as shown in Appendix B. Only Customer/Business Types (non-residential) listed in Appendix B (Capacity Adjustment Factors) as Leadership in Energy and Environmental Design (“LEED”) will be eligible for Reduced Capacity Fees in accordance with the requirements outlined in Paragraph G of this Section. These charges must be paid prior to the issuance of the building or plumbing permits. A field inspection will verify actual installation and the Capacity Fees will be adjusted if changes from the plans occurred. Owner shall be responsible for payment of additional Capacity Fees when a site visit reveals fixtures installed in addition to those previously approved and paid for.
- D. Capacity Fees apply where a new system is constructed or the extension of an existing system has been declared ready for service and adjoining property owners are required to connect.
- E. Where non-County funds have been made available to pay for all or part of the capital cost of the system and in accordance with Section 4.D (2), the County Executive may reduce but not

eliminate the Capacity Fees.

F. On any single parcel of land classified as commercial and having multiple buildings or multiple uses within one building, the first residential living unit will be billed for wastewater charges at the prevailing residential rate and any additional living units will be billed at the prevailing commercial rate.

G. LEED Eligibility for Reduced Capacity Fees

1. The LEED program is established by the U.S. Green Building Council (USGBC). The latest version of LEED (version 3, established in 2009) consists of nine (9) categories of rating systems. The New Construction and Major Renovations (NC) rating category is focused on prerequisites and credits within seven (7) topics. The only topic relevant to LEED eligibility for reduced Capacity Fees is Water Efficiency (WE); specifically, WE Prerequisite 1: Water Use Reduction and WE Credit 3: Additional Water Use Reduction, only.

2. Only Property Owners, buildings, and/or Properties that meet **all** of the following criteria are considered eligible for the LEED-based reduced Capacity Fees under this section G:

a. The Property for which the Property Owner is seeking reduced Capacity Fees due to LEED certification must be eligible for service from the County's water **and** wastewater systems. County wastewater-only properties, or those obtaining public water from a municipality or other source (e.g., City of Frederick), are not eligible.

b. The building permit for the building must have been or be issued after May 1, 2011.

c. The Commercial/Business type must be listed in Appendix B.

d. The LEED certification must apply to the entire building and the entire building must be owned by a single person or entity. No partial renovations of a building shall be

considered eligible for reduced Capacity Fees under this section. Only new construction or a complete renovation or redevelopment of an entire building shall be eligible under this section. Multiple buildings on one parcel or lot are not individually eligible, unless all buildings are collectively constructed or renovated in their entirety.

- e. Prior to issuance of a building permit, the Property Owner must: (1) sign a Notice of Intent to Obtain LEED Certification, indicating the Property Owner's intent to build a LEED certified building and seek reduced Capacity Fees; and (2) pay the Capacity Fees required in Appendix B IN FULL.
  - f. Within thirty-six (36) months following issuance of a use and occupancy permit for the building(s), the Property Owner must obtain, and provide evidence to the Division of, LEED certification for the building from the USGBC that includes points earned for WE Prerequisite 1: Water Use Reduction for a 20% capacity reduction, and WE Credit 3: Water Use Reduction for a capacity reduction of at least 30% ("LEED Certification for Water Efficiency").
  - g. Within 30 days after obtaining LEED certification as described above, the Property Owner must execute a LEED Reduced Capacity Fee Agreement with the County.
3. Within 30 days after receipt of confirmation that the building has obtained LEED certification for Water Efficiency and an executed LEED Reduced Capacity Fee Agreement, the County Executive will execute the LEED Reduced Capacity Fee Agreement and reimburse the Property Owner in an amount equal to the difference between the Capacity Fees paid by the Property Owner and the reduced Capacity Fees that apply to LEED certified buildings, using the LEED Certified Capacity Adjustment

Factors shown in Appendix B, based on the initial certification (the “LEED Reimbursement”).

4. The Property Owner shall maintain the LEED certification for Water Efficiency for the life of the building. The Property Owner shall provide proof of continuing LEED Water Efficiency certification by having LEED audits (focused on Water Efficiency) performed for the building every three (3) years. If any LEED audit shows that the building is no longer LEED-certified for Water Efficiency at the same level as the original certification, or if the Property Owner fails to obtain any required LEED audit, the Property Owner shall no longer be eligible for reduced Capacity Fees and shall be obligated to repay the LEED Reimbursement to the County.
5. If the Property Owner fails to maintain LEED certification for Water Efficiency for the building at the same level as the initial certification, or if the Property Owner fails to provide any required LEED audit to the Division, then the Division will send to the Property Owner written notice of the obligation to repay to the County the LEED Reimbursement. If the Property Owner fails to repay the LEED Reimbursement in full to the County within 30 days of the date of the written notice, then the amounts due will be added to the water bill for the Property. Failure to pay the additional Capacity Fees thereafter could result in the termination of water service to the building and/or sale of the Property at a County Tax Sale.
6. The addition of fixtures within a building that has qualified for reduced Capacity Fees due to LEED certification shall be handled in accordance with Paragraph B of this Section. An addendum to the LEED Reduced Capacity Fee Agreement shall be required.

H. Water and Sewer Capacity Fee Payment Plan Fund (PPF)

1. The Water and Sewer Capacity Fee Payment Plan Fund (PPF) may be used to provide loans to certain commercial water and/or wastewater customers (Property Owners) which meet certain criteria, to purchase water and/or wastewater Capacity Fees for new construction or expansion of existing facilities. The PPF Loan allows the Property Owner to spread out the payment of Capacity Fees over time under terms and conditions approved by the County Executive.
2. A PPF Loan must be secured by a lien on the Property to which the capacity is allocated in accordance with §2-13-24 of the Public Local Laws of Frederick County. The Property may be sold at the County's annual tax sale in order to collect the debt in the case of default or breach of the PPF Loan agreement. Non-payment of any installment may also result in the curtailment or termination of water and/or wastewater service to the Property and other applicable fees and/or fines, including but not limited to late fees in accordance with §2-13-24 of the Public Local Laws of Frederick County.
3. Only Frederick County Capacity Fees are eligible for a PPF Loan. The cost of any other charges related to development of the Property will not be eligible to be included in the PPF Loan. In addition, PPF Loans shall not include the cost of the first ten (10) Fixture Units, which must be paid in full prior to approval of a PPF Loan and prior to issuance of a building permit.
4. Except as provided in subsection 8, PPF Loans are available only for businesses that require capacity less than or equal to fifty (50) water and sewer EDUs. PPF Loans are available only for non-governmental privately-owned commercial properties.
5. A Property Owner may only have one outstanding PPF Loan. Additional capacity may be purchased for a Property with an outstanding PPF Loan, as long as the total required

capacity does not exceed fifty (50) EDUs. The term of a PPF Loan cannot be extended, nor can a PPF Loan be refinanced. PPF Loans are not transferable and the full amount of the PPF Loan, including interest, must be paid in full prior to the transfer of any portion of the Property securing the PPF Loan.

6. All PPF Loans will require payment of an administrative fee, the amount of which will be based on the term of the PPF Loan.
7. The PPF Loan program will continue to accept participants as long as there are funds available in the PPF. Once the maximum amount of the PPF has been loaned out, no additional loans will be available until the PPF has been replenished through the repayment of principal from the PPF Loans in place.
8. The Division Director, at the direction of the County Executive may authorize PPF Loans for businesses that require more than 50 EDUs, but not more than 100 EDUs, if in the judgment of the County Executive, the authorization of the PPF Loan provides an economic development benefit within Frederick County.

#### I. Water and Sewer System Capacity Leases

1. Under certain circumstances a Property Owner or a tenant that owns or operates a Manufacturing Facility that has defined production-based water and sewer capacity requirements, may request permission to lease specific amounts of water and sewer capacity for the Manufacturing Facility's production operations, subject to the following conditions:
  - a. The Property or business must be served by a County water and/or sewer system for which system capacity is reserved for lease of production-based capacity, and production-based capacity must be available for lease.

- b. The Manufacturing Facility must be able to identify specific amounts of water and sewer capacity that are directly associated with the manufacturing and production of the business's finished products.
- c. The Property Owner or tenant must purchase or have purchased the required water and sewer capacity for plumbing fixture units within the building(s).
- d. The lease of production-based water and sewer capacity cannot be combined with other fee payment options such as the Payment Plan Fund (PPF), which may already be in place.
- e. The maximum term of the production-based capacity lease shall not exceed 20 years.

## **SECTION 12. SERVICE CHARGES**

- A. Charges for water and wastewater service provided by the Division are based on the consolidated operating and capital improvement costs of the County's entire water and sewer infrastructure. This provides a level uniform cost for service to all users of the County's water and/or wastewater systems regardless of the Property's location, source of water supply, or wastewater disposal infrastructure. The consolidated water and wastewater service rates are based on the cost to provide services and are approved and adopted by the County Executive.

### **1. Ready to Serve Charges**

Water and wastewater service charges include a minimum or Ready to Serve Charge that is assessed on a quarterly basis. For improved lots, this charge is based on the meter size installed on the Property Owner's water service, or in the case of sewer only service, the customer's equivalent meter unit value. The Ready to Serve component of the service charge is intended to recover the cost to maintain infrastructure capacity associated with



the Property Owner's potential need. The Ready to Serve Charge is categorized per equivalent meter unit as shown in Appendix C. Ready to Serve Charges are also levied on unimproved lots for the benefit derived from the availability of water or sewer infrastructure. Each lot or parcel which has a water or sewer classification of W-4 or S-4 or lower shall be assessed a Ready to Serve Charge for each service that is available to the lot. Unimproved lot Ready to Serve Charges will be billed beginning with the next billing cycle following the date the services become available for use.

## 2. Usage Charges

In addition to the Ready to Serve Charge, Property Owners also pay a usage charge for the quantity of water or sewage disposal service provided to them. The County's consolidated water and sewer usage charges are based on an inclined block structure, which is intended to promote water conservation. The inclined structure provides increasing cost per unit volume based on quarterly water use within defined rate blocks.

## 3. Water and Sewer Production-Based Capacity Lease Payments

In addition to Ready to Serve and Usage charges, properties that are a Manufacturing Facility, which have been approved to lease production-based water and sewer capacity, shall be billed the lease payments quarterly, with the lease payment itemized separately from the other charges. Billing for capacity leases shall begin with the first quarterly billing following the execution of the lease.

## 4. Miscellaneous Fees for Special Services

The Division shall charge a separate fee for special services requested by Property Owners or others. These fees shall be assessed to offset any additional administrative or field staff costs to provide such services. Fees for these special services are as adopted by the

County Executive.

B. Service Charge - Billing:

1. The assessment of Ready to Serve Charges begins immediately on the day the water or sewer system available to a Property is accepted by the Division for operation and maintenance.
2.
  - a. For new construction, the billing of usage charges will begin on the date of the meter drop-in, or for sewer only service on the date of transfer.
  - b. Where a connection to an occupied or previously occupied structure is made, usage charges will begin on the meter drop-in date, or for sewer only service on the date of approved connection.
  - c. Estimated Water and Sewer Billings

When a broken water meter prevents the actual determination of consumption, the Division may base bills on the Property's historical average consumption. If no historical water consumption exists for a particular Property, then the Division may base the water consumption on the average consumption of the particular customer class. When circumstances beyond the control of the Division prevent the acquisition of a meter reading from a functioning meter, the Division shall estimate the bill based on historical water consumption data as detailed above but shall reconcile any error in the estimate with the next valid meter reading.

C. Billing Frequency, Service Charges, and Other Charges:

Billing for water and sewer service is provided on a quarterly, semiannual or annual basis at the Division's discretion, depending on the type of charge. Bills will include the sum of the Ready to Serve Charge(s) and the water and sewer usage charges. Charges such as late fees,

special assessments, production-based capacity leases, and other fees determined appropriate by the County Executive may also be included in the recurring water and sewer service charge billing. Bills are due and payable upon issuance and shall accrue interest charges beginning on the 31st day after issuance.

D. Meter Reading:

1. Automated electronic water meter reading shall be utilized by the County for residential customers.
2. Implementation:
  - a. New residential developments: All residential developments utilizing public water shall install appropriately sized electronic automatic read meters for each dwelling unit as identified by the Division's specifications.
  - b. Existing Residential Developments: The Division will pursue the replacement of existing residential meters with the electronic automatic read meters at the Division's expense.

E. Discontinuation of Service

Service to the Property may be discontinued for reasons including, but not limited to (1) non-payment of charges; (2) failure to provide clear and unimpeded access to the meter for the purposes of reading, maintaining, repairing or replacing the meter; (3) failure to comply with water conservation orders/notices; (4) failure to pay production-based capacity lease payments or failure to curtail usage upon the expiration of a production-based capacity lease; and/or (5) any other violation of these Rules and Regulations or the Public Local Laws of Frederick County.

**SECTION 13. BENEFIT ASSESSMENT**

- A. An annual benefit assessment charge may be established for each water and wastewater service area by the County Executive.
- B. The benefit assessment charge will be applied to every lot of record within the service area on an equal basis, within its classification or sub-class, regardless of the lot frontage or land area.
- C. When it is determined that a water and/or wastewater system is declared ready for service, every lot of record in the service area, whether improved or unimproved, which can be served will pay a benefit charge commencing on the date the water and/or wastewater system are declared ready, with the exception of properties classified as Agricultural. Agricultural properties will not be assessed until the water and/or wastewater connection is made.
- D. All lots of record in the Residential, Industrial or Business (Commercial) classification will be assessed even though a line may not extend along the full length of any property boundary.

**SECTION 14. APPEALS**

- A. Written appeals to the application or interpretation of these Regulations will be made to the Director of the Division within thirty (30) days of the date of notice.
- B. Written appeals from the decision of the Director of the Division will be made to the County's Chief Administrative Officer within thirty (30) days of the date of notice.

**SECTION 15. MISCELLANEOUS PROVISIONS**

- A. No person, organization or agency may withdraw water from a system without the written permission of the Division.
- B. Anyone desiring to use water from a County system must contact the Division for permission. A charge will be made for said withdrawal based upon the amount used.

C. No person shall cut, break, pierce, tap or connect to any water or sewer line or appurtenance thereof without prior written permission from the Division.

D. Maintenance of Access to Water Metering Equipment

The Division shall have ready and unencumbered access to its water metering equipment located on the Property. Owners or others using the Property may not tamper with, cover, displace, relocate, or otherwise obstruct the Division's metering facilities. The Division shall have the right to remove, trim, excavate, or take any other steps as may be needed to gain access to metering facilities within public rights of way and on the Property served by the Division. Costs associated with such steps may be billed to the Property Owner or the person(s) obstructing access.

E. The Division strives to continuously provide to its customers water and wastewater services which meet State and Federal standards while minimizing interruptions in water and wastewater services. However, the Division is not able to guarantee that all customers' water supply will be uninterrupted or continuously provide a flow at a defined per unit rate or at a specific pressure at all times. The Division is not able to guarantee proper functioning of water using appliances, devices, heating and cooling systems, private fire suppression systems, e.g., sprinkler systems, or other equipment and appurtenances, and shall not be responsible for damages arising from or relating to water supply issues, including customer's failure to pay water/sewer bills, etc.

**SECTION 16. SERVICE TERMS AND CONDITIONS**

By connecting to the public water and/or wastewater system the Property Owner acknowledges and agrees to comply with these Rules and Regulations, including but not limited to the following

Terms and Conditions:

1. All water supply and wastewater services installed up to the cleanout/meter vault locations shall remain the property of the County. Access to the cleanout/meter vault is granted to the County for the duration of the provision of water/wastewater service to the Property. Opening of or entering into the meter vault is strictly prohibited by anyone other than personnel authorized by the Division. Violators may be subject to fines and/or criminal prosecution.
2. Water/wastewater services provided under the Water/Sewer Service Application (“Service Application”) are restricted to the particular building which is indicated on the Service Application, and may not be extended to any other building or property. The Division shall determine the location for the service connection to the Property.
3. Only sanitary sewage waste may be discharged into the County’s wastewater system. Cellar or basement drains, sump pumps, roof leaders, foundation drains, or any other waste drainage facilities shall not be discharged into the wastewater system.
4. After the initial installation the Property Owner shall be responsible, at the Property Owner’s cost, to subsequently raise or lower the meter housing or top of sewer cleanout, due to a change in the grade or the failure to properly establish the finished grade. For properties within the City of Frederick that are served by County sewer, twenty-four (24) hour notification is required to the Division so an inspection of the connection to the cleanout can be made prior to backfilling the excavation.
5. An approved building or plumbing permit must be obtained prior to the installation of any additional plumbing fixtures in compliance with Chapter 1-14 of the Frederick County Code. Any plumbing work performed on the Property without an approved building

and/or plumbing permit may result in additional fees and/or fines. The Property Owner acknowledges that if the Customer/Business Type assigned to the Property (based on information provided by the owner) changes, or if the water consumption/wastewater discharge amount varies significantly from the Capacity Adjustment Factor associated with the Customer/Business Type assigned to the Property, additional service and/or Capacity Fees may be due to the County.

6. A completed Industrial Waste Survey is required for any commercial (non-residential) Property wishing to connect to the County's wastewater system. Related pre-treatment information may be required to be submitted in support of the Survey. A change in business activity or tenant or Property ownership will result in the need for an updated Survey to be completed and filed with the Division's Office of Regulatory Compliance.
7. Representatives of the Division shall have the right to enter a non-residential Property periodically during the life of the buildings(s) for the purpose of confirming the installed plumbing fixtures. Any fixtures that are found to be installed without having been properly paid for will be subject to Capacity Fee charges at the current rate.
8. The Property Owner's failure to comply with these Terms and Conditions or Rules and Regulations may result in fees and/or fines and/or termination of service to the Property.

## APPENDIX A

### Capacity Charges

ALL CHARGES SHOWN HEREIN ARE SUBJECT TO AN ANNUAL INCREASE (BASED ON THE U.S. DEPARTMENT OF LABOR, BUREAU OF STATISTICS CONSUMER PRICE INDEX: CPI-U ALL ITEMS, WASHINGTON-BALTIMORE DC-MD-VA-WV, SERIES ID: CUURA311SA0, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS, WASHINGTON, DC.), BEGINNING JULY 1, 2009 AND EACH JULY 1 THEREAFTER.

THE CPI SHALL BE CALCULATED ON THE BASIS OF THE DIFFERENCE BETWEEN THE LATEST REPORTED MONTHLY INDEX NUMBER PRIOR TO THE THEN ADOPTED PERIOD AND THE INDEX NUMBER FOR THE SAME MONTH IN THE PRIOR YEAR. THE ADJUSTMENT FACTOR EXPRESSED, AS A PERCENT CHANGE INCREASE, WILL BE USED TO RECALCULATE THE CAPACITY CHARGE ANNUALLY.

#### SEWER CAPACITY FEES

##### Residential Connection

\$7,372.00 per dwelling unit

##### Commercial, Industrial, Institutional Connection, Governmental, Educational

\$737.20 per fixture unit based on the Fixture Unit Chart and the Capacity Adjustment Factor Chart

#### WATER CAPACITY FEES

##### Residential Connection

\$5,282.00 per dwelling unit plus the meter and drop-in costs

##### Commercial, Industrial, Institutional Connection, Governmental, Educational

\$528.20 per fixture unit based upon the Fixture Unit Chart and the Capacity Adjustment Factor Chart plus the meter and drop-in costs

**Effective July 1, 2018 through June 30, 2019**

#### PRODUCTION-BASED WATER AND SEWER CAPACITY LEASES FOR MANUFACTURING FACILITIES

Subject to the provisions in subsection I of Section 11, lease rates for production-based water and/or sewer system capacity shall be determined based on the type of lease and its duration. The Division shall have sole approval authority regarding the lease of capacity and shall have discretion as to the terms and conditions of the lease, which must be consistent with the following guidelines.



## 1. Capacity Lease/Purchase Option

The Division may offer production-based water and sewer capacity to a Manufacturing Facility under a capacity lease–purchase plan that allows the Manufacturing Facility (or Property Owner) to secure production-based capacity under a lease that includes the option to purchase the capacity during or at the end of the lease by paying all lease payments plus an amount equal to the interest that would have been charged for the capacity if it had been purchased under a Payment Plan.

## 2. Capacity Lease Only Option (No Purchase Option)

The Division may offer production-based water and sewer capacity to a Manufacturing Facility (or Property Owner) under an annual lease, the lease payments for which shall not be credited toward purchase of the capacity. This annual lease of production-based capacity shall be eligible for up to 20 annual renewals. At each annual renewal, the amount of leased production-based capacity could be increased or decreased to address changes in the needs of the Manufacturing Facility or the Property. At any time during or at the end of any lease term, the Manufacturing Facility or the Property Owner may purchase all or a portion of the capacity at prevailing rates, but none of the lease payments shall be credited to the capacity fee (purchase) payment date. Once the lease expires, the Manufacturing Facility or Property Owner shall no longer be allowed to use the production-based capacity and must reduce water and sewer usage to stay within the Manufacturing Facility’s or Property Owner’s allocated capacity.

All leases shall meet the following general guidelines:

- a. The initial term of lease with purchase option (No. 1 above) may be no more than 20 years. The term of a lease without a purchase option (No. 2 above) shall be one year, with options for renewal for up to a total of 20 years.
- b. The lease shall not allocate system capacity to a property permanently; only temporarily. Upon termination of the lease, unless the capacity has been purchased, the leased capacity shall be returned to the Division’s leased capacity reservation or the pool of capacity that is for sale, whichever the Division determines to be appropriate and in the best interest of the County.
- c. The lease may be entered into by either the Property Owner or a tenant that owns or operates a Manufacturing Facility as shown in Appendix B.
- d. The lessee may transfer the leased production-based capacity from one property to another as long as: (1) the properties are tributary to the same water and sewerage systems, and (2) the local collection system or water distribution systems have adequate capacity to accommodate the transfer.
- e. Production-based capacity leases that allow payments to be credited towards the ultimate purchase of capacity shall require the purchase of complementary water and sewer capacity.
- f. Leases shall include any special legal or technical terms deemed necessary by the Division to ensure compliance with local, state, or federal regulations.

**APPENDIX B\*\***

**Water Meter Fees**

**Residential/Commercial**

M25 - 3/4"	\$ 250.00
M55 - 1"	\$ 300.00
E-Series - 1"	\$ 421.50
M70 - 1"	\$ 310.00
M120 - 1½"	\$ 550.00
M170 2"	\$ 650.00
1½" Turbine	\$ 800.00
2" Turbine	\$ 950.00
3" Turbine*	\$ 900.00
4" Turbine*	\$ 1,300.00
2" Recordall Compound	\$ 1,500.00
3" Recordall Compound*	\$ 1,600.00
4" Recordall Compound*	\$ 2,400.00
6" Recordall Compound*	\$ 3,400.00

**Fire Service Water Meters**

3" Fire Assembly*	\$ 2,100.00
4" Fire Assembly*	\$ 4,700.00
6" Fire Assembly*	\$ 6,000.00
8" Fire Assembly*	\$ 8,100.00
10" Fire Assembly*	\$ 11,700.00

*\* Price does not include meter installation. The installation must be funded and performed by the building owner or developer via a utility contractor at the time the meter vault is constructed.*

*\*\*Revised per Memorandum from Kevin L. Demosky, Director, DUSWM, dated 10/12/18 and signed by Raymond V. Barnes, Jr., Chief Administrative Officer, on 10/19/18, effective 12/1/18. E-Series meter pricing further revised based on Memorandum dated 1/3/19 and approved 1/9/19.*

**ALL WATER METERS SUPPLIED BY FREDERICK COUNTY**

MANUAL METER READING FEE                      \$20.00/quarter

**APPENDIX B**  
**Fixture Unit Chart For**  
**Equivalent Units For**  
**Commercial, Industrial and Institutional Properties**  
**For**  
**Sewer Capacity Fees and Sewer Service Charges**  
**When Water Usage Not Metered By Frederick County**  
**Division of Utilities and Solid Waste Management**

<u>Fixture Type</u>	<u>Trap Size</u>	<u>Fixture Unit Value</u>
Apartment (per apartment) <sup>2</sup>		10
Bathtub with or without integral shower	1½ or 2	4
Combination sink and tray	1½	3
Combination sink and tray with food disposal unit	½ separate	4
Dental unit or cuspidor	1½	1
Dental lavatory	1½	1
Drinking fountain - single	1½	1
Drinking fountain – high/low or double	1½	2
Dishwasher (commercial)	1½	6
Dishwasher (domestic type)	1½	4
Eyewash	1½	1
Floor drain <sup>3</sup>	2 -3"	4
Floor drain	4	6
Floor drain	6	8
Floor drain (demonstration fume hood)	2	3
Floor sink	3	6
Floor sink	4	7
Fume hood with drain	2	2
Trench drains (every 3' min. 9') (per each trench drain)		1
Ice Cream Dipper Well	--	3
Kitchen sink (domestic type)	1½	4
Kitchen sink (domestic type with food disposal unit)	1½	5

<sup>2</sup> Does not include apartments within Assisted Living/Nursing Home/Rehabilitation/Retirement Centers.

<sup>3</sup> Floor drains used to collect water from a series of fixtures will be charged by the fixture units of the fixtures or by the drain size, whichever is greater.

<u>Fixture Type</u>	<u>Trap Size</u>	<u>Fixture Unit Value</u>
Lavatory	1½	2
Lavatory tray (1 or 2 compartments)	1½	3
Print washer	--	3
Processing sink	--	3
Shower, 2 heads	--	8
Shower, 3 heads	--	12
Shower, 4 heads	--	16
Shower stall (domestic type)	2	4
Showers (group) per head w/2 or more		4
Sinks:		
Bar with disposer	1½	3
Bed pan	--	6
Classroom	--	3
Mop, single bowl	2	3
Mop, double bowl	2	6
Pedicure		2
Pot, scullery, etc.	1½	4
Print	--	3
Service, single bowl	3	3
Surgeon's	1½	3
Three-compartment	--	6
Trailer Park (per pad site)		10
Urinal: Pedestal	3	10
Wall or stall	2	5
Trough (for 18 inch length)		2
Waterless		2
Ventilator	2	3
Wash sink (circular or multiples each set of faucets - or 12")	1½	2
Washing machine-domestic	1½	4
Washing machine – commercial	to be determined based upon machine's capacity	
Water closet	3	10
Water cooler, electric with drain	1½	1

NOTE: Fixtures and other connections which are not included in this list will need to be rated by the Division upon request for installation by a Property Owner. Ten (10) Fixture Unit values equate to one residential

**APPENDIX B**

**Frederick County Division of Utilities and Solid Waste Management  
Capacity Adjustment Factors for Commerical, Industiral and Institutional Customers**

ADJUSTMENT FACTOR IS APPLIED, PER ACCOUNT, TO FIXTURE UNITS IN EXCESS OF TEN (10)

<b>Customer/Business Type</b>	<b>Capacity Adjustment Factor (CAF)</b>	<b>LEED Certified** CAF</b>
Animal Care and Services	0.12	0.07
Apartment - (Including Multi-Story Senior Apartments)	0.37	
Assisted Living / Nursing / Rehabilitation / Retirement Facility	0.19	
Auto Sales / Repair	0.32	0.19
Beauty Shop / Nail Salon	0.21	0.13
Bowling Alley	0.64	0.38
Car Wash	Note 1	
Church - WITH or WITHOUT Nursery School / Dayschool / Childcare	0.05	0.03
Community Center	0.20	
Community Poolhouse / Bath House	0.42	
Contracting / Construction Services	0.37	
Convenience Store / Gas Station	0.55	0.33
Correction Facility	0.27	
Daycare / Childcare Center / Nursery School	0.11	0.07
Distribution Center	0.14	
Financial Institution (Bank, Credit Union, Mortgage Co., Savings/Loan Co.)	0.07	0.04
Fire Company WITH or WITHOUT Banquet / Kitchen facilities	0.11	0.07
Funeral Home	0.15	0.09
Grocery Store	0.27	
Health Club / Athletic Club / Golf Clubhouse	0.22	
Hotel / Motel WITH Restaurant	0.34	0.20
Hotel / Motel WITHOUT Restaurant	0.17	0.10
Ice Skating Facility	1.07	
Irrigation / Outdoor Landscaping / Decorative Water Fountain	Note 2	
Library	0.04	0.02
Manufacturing Facility	Note 3	
Office - (Park, Medical or Dental)	0.16	0.10
Pool	Note 4	
Post Office	0.05	0.03
Restaurant / Nightclub WITH seating	0.58	0.35
Restaurant WITHOUT seating	0.46	0.28
Retail	0.18	0.11
Retreat Center	0.14	
School - Public, Private, or College; Non Boarding	0.09	0.05
Shell Building	1.00	
Shopping Center / Strip Mall	0.25	0.15
Storage Facility	0.37	
Trailer Park	0.35	
Warehouse	0.82	

house or dwelling.

**APPENDIX B**

**Frederick County Division of Utilities and Solid Waste Management  
Capacity Adjustment Factors for Commercial, Industrial and Institutional Customers**

ADJUSTMENT FACTOR IS APPLIED, PER ACCOUNT, TO FIXTURE UNITS IN EXCESS OF TEN (10)

Note 1 - Capacity Adjustment Factor shall be determined by the Division on a case by case basis and shall include an evaluation of the facility's ability to recycle or reuse water in the carwashing process.

Note 2 - Dedicated irrigation and outdoor landscaping services shall be supplied through separate metered water service connections only. Capacity Adjustment Factors for these services shall be determined by the Division on a case by case basis.

Note 3 - The Capacity Adjustment Factor for customer(s) classified or predominantly engaged in manufacturing activities shall be determined by the Division on a case by case basis after completing an engineering analysis on their projected water use.

Note 4 - The Capacity Adjustment Factor for swimming pools shall be determined by the Division on a case by case basis, based on the size of the pool, type of filtration system and the means of filter system backwash water disposal.

Any establishment not covered by the above Customer / Business Types will be classified by the Division based on the best available information and data from recognized sources.

\*\* Represents the **maximum** reduction. The LEED certified CAF is variable, starting at 30% reduction but cannot exceed a 40% reduction, and depends on the two eligible Water Efficiency (WE) Credits obtained: *WE Prerequisite* and/or, *WE Credit 3: Additional Water Use Reduction*. The table below illustrates the maximum example:

<b>LEED New Construction &amp; Major Renovation Water Efficiency Credit</b>	<b>Select Credits</b>	<b>Use Reduction</b>	
		<b>Water</b>	<b>Sewer</b>
WE Prerequisite	20% Water Use Reduction	20%	20%
WE Credit 1: Water Efficient Landscaping	No Potable Water Irrigation	N/A	N/A
WE Credit 2: Innovative Wastewater Technologies	No Sewage Conveyance Reduction	N/A	N/A
WE Credit 3: Additional Water Use Reduction	40% Water Use Reduction	40%	40%
	<b>Max Reduction</b>	<b>40%</b>	<b>40%</b>

<b>WE Prerequisite: 20% Water Use Reduction</b>		
No Water Use Reduction	0%	0%
20% Water Use Reduction	20%	20%
<b>WE Credit 1: Water Efficient Landscaping</b>		
No Water Efficient Landscaping	N/A	N/A
50% Potable Water Irrigation Reduction	N/A	N/A
No Potable Water Irrigation	N/A	N/A
<b>WE Credit 2: Innovative Wastewater Technologies</b>		
No Sewage Conveyance Reduction	N/A	N/A
50% Sewage Conveyance Reduction	N/A	N/A
<b>WE Credit 3: Additional Water Use Reduction</b>		
No Additional Water Use Reduction	0%	0%
30% Water Use Reduction	30%	30%
35% Water Use Reduction	35%	35%
40% Water Use Reduction	40%	40%

APPENDIX C

**FREDERICK COUNTY DIVISION OF UTILITIES AND  
SOLID WASTE MANAGEMENT**

*EQUIVALENT METER CHART*

**IMPROVED LOT OR PARCEL:**

	METER SIZE	EQUIVALENT METER UNIT
RESIDENTIAL:	5/8", 3/4", 1" (Townhouse, Single Family, Duplex & Condo ONLY)	1.0

COMMERCIAL, INDUSTRIAL, INSTITUTIONAL:

	<u>Effective 7/1/08</u>
5/8"	1.0
3/4"	1.1
1"	2.5
1 1/2"	5.0
2"	8.0
3"	16.0
4"	25.0
6"	50.0
8"	80.0
10"	138.0

<b>UNIMPROVED LOT OR PARCEL</b>	1.0
<b>NON-CONNECTED LOT OR PARCEL</b>	1.0

For all accounts with detector check assemblies on sprinkler system fire suppressions systems, the size of the detector check assembly, not the detection meter, will be used to determine the equivalent meter units.

## **Revision and Amendment Administrative History**

### **Rules and Regulations Revised January 16, 2001 per Resolution No. 01-05**

#### **Rules and Regulations Amended as follows:**

##### **Amendment Pursuant to [Resolution No. 01-15](#) dated May 22, 2001:**

Add new Section VI.B.: Existing structures that experience well and or septic system failure, or existing structures served by private water, sewer, well or septic systems that are required to connect to County owned water and sewer infrastructure, may be eligible for an extended payment plan that will allow the property owner to pay the water and/or sewer capacity fees over a ten (10) year period of time at the interest rate set by the BoCC. The provision of the ten (10) year payment plan option is limited to existing structures only, and will require the approval by the BoCC, and be payable in full upon the transfer of the property.

##### **Amendment Pursuant to [Resolution No. 02-04](#), dated February 19, 2002:**

Changes to Appendix B – Capacity Adjustment Factors for Commercial, Industrial and Institutional Customers: Change Hotel / Motel with Restaurant from .44 to .26; change Hotel / Motel without Restaurant from .26 to .16; change Assisted Living / Nursing / Rehabilitation / Retirement Facilities from .64 to .22; affirm establishment of new category known as Beauty Shop/ Nail Salon at .35; affirm establishment of new category known as Multi-Story Senior / Elderly Apartments at .25; affirm establishment of new category known as Office Park at .34.

Change to Section III.D.1: Delete “ten percent (10%)” and replace with “fifteen percent (15%)”.

Change to Section VIII. A: Delete “must apply for a Connection Permit at the office of the Frederick County Water and Sewer Department” and replace with “must execute a Service Agreement with the Division of Utilities and Solid Waste Management”.

Change Section X.A.3: Delete entire section and replace with “The Director of the Division of Utilities and Solid Waste Management shall reserve fifteen percent (15%) of the capacity of each water and sewer system for public buildings and health hazard areas.”

Changes to Section XII.A.1: Delete “Appendix C” and replace with “Appendix F” and the inclusion of the previously approved Equivalent Meter Unit Chart into the Appendices as Appendix F. Delete “in advance” from the last sentence.

Add new Section XII.E. Discontinuation of Service: Service to the property may be discontinued for reasons including, but not limited to (1) non-payment of charges; (2) failure to provide clear and unimpeded access to the meter for the purposes of reading, maintaining, repairing or replacing the meter; (3) failure to comply with water conservation orders/notices; (4) any other violation of the Rules and Regulations of the Division of Utilities and Solid Waste Management and the Public Local Laws.

Proposed to amend the Water and Sewer Miscellaneous Fees Schedule: clarify ‘Removal and Laboratory calibration bench test of water meter fee of \$50.00 per occurrence, if meter is accurate; no charge if meter is found to not conform with AWWA standards’; change the present Return check fee from \$25 per occurrence to \$25 per occurrence plus bank charges.



**Amendment Pursuant to [Resolution No. 06-29](#) dated July 20, 2006:**

Add to Section XV.E. Miscellaneous Provisions: The Division of Utilities and Solid Waste Management strives to continuously provide to its customers water and wastewater services which meet State and Federal standards while minimizing interruptions in water and wastewater services. However, the Division is not able to guarantee that all customers' water supply will be uninterrupted or continuously provide a flow at a defined per unit rate or at a specific pressure at all times. The Division is not able to guarantee proper functioning of water using appliances, devices, heating and cooling systems, private fire suppression systems, e.g., sprinkler systems, or other equipment and appurtenances, and shall not be responsible for damages arising from or relating to water supply issues, including customer's failure to pay water/sewer bills, etc.

Changes to Appendix F: Change residential meter size and equivalent meter unit from "5/8", 3/4", 1" (Town House Only) 1.0; 1" (Other than a Town House) 1.4" to "5/8", 3/4", 1" (Townhouse, Single Family, Duplex & Condo ONLY) 1.0."

**Amendment Pursuant to [Resolution No. 08-14](#) dated May 20, 2008:**

Changes to Appendix A effective May 21, 2008: The following language was incorporated into Appendix A: "ALL CHARGES SHOWN HEREIN ARE SUBJECT AN ANNUAL INCREASE (BASED ON THE U.S. DEPARTMENT OF LABOR, BUREAU OF STATISTICS CONSUMER PRICE INDEX: CPI-U ALL ITEMS, WASHINGTON-BALTIMORE DC-MD-VA-WV, SERIES ID: CUURA311SAO, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS, WASHINGTON, DC., BEGINNING JULY 1, 2009 AND EACH JULY 1 THEREAFTER.

THE CPI SHALL BE CALCULATED ON THE BASIS OF THE DIFFERENCE BETWEEN THE LATEST REPORTED MONTHLY INDEX NUMBER PRIOR TO THE THEN ADOPTED PERIOD AND THE INDEX NUMBER FOR THE SAME MONTH IN THE PRIOR YEAR. THE ADJUSTMENT FACTOR EXPRESSED, AS A PERCENT CHANGE INCREASE, WILL BE USED TO RECALCULATE THE CAPACITY CHARGE ANNUALLY. "

Also in Appendix A, sewer connection charges were changed as follows: Residential Connection charge of \$6,000 per dwelling unit changed to \$6,280 per dwelling unit; Commercial, Industrial, Institutional Connection, Governmental, Educational sewer connection charge changed from \$600 per fixture unit based on the Fixture Unit Chart and the Capacity Adjustment Factor Chart to \$628 per fixture unit based on the Fixture Unit Chart and the Capacity Adjustment Factor Chart. Water connection charges were changed as follows: Residential Connection charge of \$4,300 per Dwelling Unit plus the meter and drop-in costs changed to \$4,500 per dwelling unit plus the meter and drop-in costs; Commercial, Industrial, Institutional Connection, Governmental, Educational changed from \$430 per fixture unit based upon the Fixture Unit Chart and the Capacity Adjustment Factor Chart plus the meter and drop-in costs to \$450 per fixture unit based upon the Fixture Unit Chart and the Capacity Adjustment Factor Chart plus the meter and drop-in costs.

Changes to Appendix F-1 effective July 1, 2008: Change Commercial, Industrial, Institutional Equivalent Meter Units as follows: 1" from 1.4 to 2.5; 1 1/2" from 1.8 to 5.0; 2" from 2.9 to 8.0; 3" from 11.0 to 16.0; 4" from 14.0 to 25.0; 6" from 21.0 to 50.0; 8" from 29.0 to 80.0; and 10" from 38.0 to 138.0.

**Amendment Pursuant to [Resolution No. 10-12](#) dated May 18, 2010:**

Changes to text of Sections VII, VIII, X and XI, repeal of Appendices C, D and E, and relabeling of Appendix F as Appendix C.

**Amendment Pursuant to [Resolution No. 12-14](#) dated August 9, 2012:**

Revisions to the Water and Sewer Rules and Regulations to add new sections related to: (1) Water and Sewer Capacity Fee Payment Plans for small businesses; (2) Reduced Water and Sewer Capacity Fees for Leadership in Energy and Environmental Design (LEED) certification; and (3) Terms and Conditions of water and wastewater service. Appendix B was also updated to adjust Capacity Adjustment Factors. In addition, several definitions were added, deleted or revised, and the general text of the Rules and Regulations was updated for clarity, accuracy and consistency.

**Amendment Pursuant to [Resolution 13-05](#) dated March 14, 2013:**

Revisions to various sections incorporating an option for a Public Improvements Agreement enabling a Property Owner to manage a contract for construction of community water and/or wastewater facilities that includes a contract with a third party firm for inspection of construction of the facilities.

**Amendment Pursuant to [Resolution 13-06](#) dated March 14, 2013:**

Revisions to add new subsections and changes to Appendix A enabling the lease of production-based capacity in the Potomac River water system and the Ballenger-McKinney wastewater system.

**Amendment Pursuant to [Memorandum](#) dated September 6, 2013:**

Revisions to Appendix B to reflect changes in water meter prices based on a Memorandum recommending said changes dated September 6, 2013, and approved by the County Manager on September 11, 2013.

**Amendment dated April 6, 2015 (effective May 1, 2015):**

Revisions to various sections incorporating certain changes to the Public Improvement Agreement (PIA) Process, other Charter-related changes and “housekeeping” Items, and changes to Water and Sewer Capacity Fee Payment Plan Fund (PPF) Loan Program. Generally, the changes to the PIA will allow Developers to continue to contract for and provide construction of the infrastructure covered under a PIA; however the third party inspection service providers will contract directly with the County (DUSWM) to ensure a separation of duties and to make sure that all inspection requirements are met to the satisfaction of DUSWM. Developers will continue to select the third party inspection firms, subject to approval by DUSWM of the firm and their scope of services. Generally, “housekeeping” matters addressed references to the County Commissioners and were removed and replaced with references to the “County” (redefined) and to the “County Executive”, as appropriate, relating to the County’s change to Charter government on December 1, 2014. Each numerical section identifier was a Roman numeral and was changed to Arabic for ease of reference. In Appendix B, a fixture type was added for an Ice Cream Dipper Well. Generally, changes to the PPF Loan Program increased the maximum equivalent dwelling units (EDUs) from 15 to 50 with DUSWM approval, and with County Executive approval, to a maximum of 100 EDUs. This change allows more commercial properties to participate in the PPF Loan Program, providing additional flexibility for developers of commercial properties.