



ST. MARY'S COUNTY METROPOLITAN COMMISSION

STANDARD PROCEDURES & POLICIES

SP Number:

FIN-19-01

Approval Date: 02/28/19

Approved By: Board

Effective Date: 07/01/19

SUBJECT: **SPECIAL BENEFIT ASSESSMENT PROGRAM**

Authority. Sections 113-9 of the Code of St. Mary's County, Maryland.

Introduction. The very real problem of requiring mandatory connections for property owners that have functioning wells and septic fields is problematic and has been debated locally for many years. Private lines and connections are not accepted into the Metropolitan Commission's public infrastructure maintenance system. To provide a **voluntary** mechanism whereby MetCom could encourage customer base growth, the St. Mary's County's Metropolitan Commission requested and was granted the legislative authority by the Maryland General Assembly (HB 275), in Chapter 113-9 of the St. Mary's County Code, to offer Connection Incentive Programs and other financing mechanisms to assist owners of **existing residential properties** currently served by septic and/or well systems, with all or a portion of the costs of connecting to available public sewer and water systems within planned service areas as designated by the St. Mary's County Comprehensive Water & Sewerage Plan, as amended from time to time. The authority became effective on October 1, 2018.

This program is a supplement to the current provisions in Chapter 113-14 and 113-29.K(1) where the Commission can construct / provide service to property in an area that is not feasible to provide service at the uniform rate because of the distance of the area from the principal facilities of the Commission, the Commission may classify the property as a **Remote Area** and may / shall impose an additional service charge / system improvement charge (*ie. Remote Area Service Charge*) to those properties that derive benefit in order to meet the additional cost of providing service to the property. The Commission may also collect a reasonable deposit in advance of furnishing the service. Chapter 113-9 of the St. Mary's County Code grants the Commission the authority to adopt the necessary procedures for the method of determining special benefit assessment charges or service extension fees levied against the properties benefiting from the improvements and the time and manner of payment.

A. Program Statements. The program statements set forth below are based on the authority provided in the Code:

1. **Availability of Funds.** Any financing programs, incentives or mechanisms shall be subject to the availability of funds and may vary based upon location, financial eligibility or other qualifying criteria (*ie. residential properties only*), as approved by the Commission.
2. **First Lien.** Special benefit assessment charges or service extension fees are a first lien upon the property against which they are assessed, until paid, subject only to prior State and County taxes, and if any property is sold for State and County taxes and there remains a surplus, the Commission may petition the Circuit Court to secure payment of the lien. The lien on the property shall be in an amount not to exceed the amount of the outstanding balance.
3. **Mandatory Connections.** If the developer(s) of affected subdivisions had been required to construct the water and sewer systems in the first place, and if there was a mandatory connection policy in place, there may be no need for this program.
4. If the water and sewer infrastructure had been constructed to a higher standard, there would have been greater development costs and it is logical to conclude that higher per lot costs would have been passed on to the purchasers of those lots.
5. **Shared Costs.** The County, MetCom and the delegation had an element of responsibility in creating and enforcing regulations governing development of residential subdivisions and thus must share to some degree the correcting of these problem areas.
6. **Responsibility.** The buyer of a lot in a residential subdivision has a major element of responsibility to know what he/she is buying. Government or quasi-government entities such as MetCom cannot entirely assume that responsibility for the individual, especially in the event of failing water or sewer systems.
7. **Property Values.** The improvement of water and sewer infrastructure in a residential subdivision will most likely significantly improve the property values of those homes bordering such streets with the value accruing to those homeowners.

8. **Equity.** A goal to be strived for in the improvements of water and sewer infrastructure should be equity for both the lot owner and the Commission.
9. This program does not address the provisions in Chapter 113-16 regarding the responsibility to upgrade/expand existing private systems deemed to be “unfit”.
10. **Future Planning.** For individuals wishing to extend service to their property, at their sole expense or under a financing program MetCom may require the main / line be oversized in anticipation of the future need (*ie. capacity to serve additional properties*) or desire of other property owners adjacent to or along the path of the proposed main / line. MetCom shall bear the difference in costs (*similar to a Developer Cost Share Agreement*) between the standards required to serve the applicant(s) and the higher standard.

B. Program Guidelines. Taking into account the above premises, the following are general program guidelines within which these charges and fees will be established for **Community Requests For Service and Requests for Service By Owners of Individual Parcels:**

1. **Petition.** In order for special benefit assessment charges to be applied there must first be a petition of the property owners requesting improvements, a public informational meeting, approval of the confirming petition by a majority vote of the Commission, and passage of an Ordinance (s) setting forth the improvements being constructed, the property owners affected, and all material terms of the annual benefit assessments levied to pay the cost of the improvements, or any reasonable portion of them, as determined by the Commission. The petition shall be signed by each property owner having a fee simple interest in the affected property.
2. The charges / fees shall be collected for the purpose of reimbursing the Commission for the actual costs of the water and/or sewer infrastructure improvements and shall include design, permitting, land acquisition, materials testing, inspections, and construction. The costs shall be borne by the property owners petitioning the Commission and shall include any interest accrued by the Commission as a result of front funding the project.
3. **Administrative Fee.** A 5% administrative fee over the life of the loan shall be incorporated into the special assessment unless the Commission chooses to be responsible for all in-house administrative and planning costs, if any.
4. **Amortization Period.** The amortization period to retire the cost for the water and/or sewer infrastructure improvements shall not to exceed twenty (20) years.
5. **Concurrence with Estimated Costs.** Upon approval of a petition by one hundred percent (100%) of the property owners whom are willing and able to assume the fiscal responsibility (*MFSG suggested an initial letter of interest / petition be from at least 60-70% of the owners that would be service by a proposed line extension*) ... either with County personnel or consultants, as it deems appropriate, to do the preliminary engineering and determine estimated project costs. At this time, such estimates would be made available to the petitioners who would then make the decision whether or not they would agree to the creation of a Special Benefit Assessment capital project. Upon such

- agreement, the County would do with its personnel or by consultant, the design engineering and solicit construction bids. If the scope of the project would warrant consulting engineers, the cost as indicated in #1 above, would also be borne by the property owners.
6. **Financing.** It is assumed that the financing of such capital construction projects would be accomplished by the Commission borrowing the necessary funds with the lot owners paying the costs of the interest and principal, except that the Commission's costs might be paid through budgetary appropriations or borrowing, as it would deem appropriate at that time.
 7. **Interest.** The CFO will provide the applicable interest rates, based upon the cumulative interest rate on the current debt at the time of application, subject to annual adjustment PLUS one (1) percentage point for administrative costs OR as per the approved capital improvement budget on all water and/or sewer capital contribution projects PLUS one (1) percentage point for administrative costs. In accordance with 113-12.C(5), when bonds have not been issued at the time the Capital Contribution Charge is calculated, a schedule for the principal of, interest on, and other costs of the bonds may be established.
 8. **Benefit Assessment.** A key element will be the method of determining the share of the costs to be borne by each affected lot. This will have to be addressed separately in each Resolution adopted for each specific subdivision so that the specifics of that situation can thus be taken into account (*i.e. "uniform cost per lot or benefit derived or front footage / lot width*).
 9. It is assumed that extensions of service would be funded through MDE or DHCD loans as MetCom would be required to own the asset for which the money was borrowed.
 10. **Equity.** From an equity standpoint, if properties not in the initial "District", who have not been paying for the improvements, apply for a connection permit, and there remains an unpaid balance on the improvements, the property will be included in the "District" and the special assessment will be prorated amongst all participants and a revised Levy Ordinance adopted.
 11. **In Good Standing.** To qualify, the property cannot be encumbered with delinquent property taxes, bankruptcy, special assessments or assessment loans.

C. Procedures.

1. Initial Petition / Letter of Interest by Property Owners submitted to the St. Mary's County Metropolitan Commission.
 - Requires Map of the benefitted properties / area(s) showing the proposed project boundaries
 - If MetCom elects to deny the request, it shall issue a written statement as to the basis for its decision.
 - Check Consistency with County Comprehensive Water & Sewerage Plan
2. Prepare Preliminary Design and Construction Cost Estimate(s)
 - Establish scope and limits of project and method of assessment (*equal payments, front footage, or parcel square footage based*)

- MetCom submits preliminary cost estimate to community to help determine financial feasibility
 - Costs for the physical connections (*ie. capital contribution charge*) are separately identified as a part of the Connection Incentive – Residential Assistance Program, but may also be financed thru this program
 - Submit Informational Package to the Commission at regularly scheduled meeting
 - Schedule Public Informational Meeting (PIM)
 - Send Notification to benefitted Property Owners of record
3. Public Informational Meeting
 - Staff Presentation to Residents – Estimated Cost, Timing, Method and Amt. of Assessment(s)
 - Confirm # of “Benefitted” Properties
 4. Confirming Petition by Property Owners Submitted to the Commission
 - Verify Adequacy of Signatures Obtained (100% required)
 5. Prepare Draft Establishment Ordinance for the special benefit assessment charges or service extension fees in accordance with Final Confirming Petition
 - Perform Title Searches, Prepare Deed(s), or Plat(s), or right(s) of entry or easement(s), as required
 - Legal Review of Ordinance (*include provisions for property sale, etc.*)
 6. Approval of Confirming Petition and Draft Establishment Ordinance by the Commission
 - Request to Schedule Public Hearing
 - Notice Requirements
 - Request **Capital Improvement Budget (CIB) Funding** as a Budget Amendment in current fiscal year or program in following fiscal year subject to the legislated combined debt limit in Section 27-11 of the Code of St. Mary’s County
 7. Public Hearing with Establishment Ordinance by the Commission
 - Ten (10) day notice in a newspaper regularly published in St. Mary’s County
 - A minimum ten (10) Day Comment Period
 - Fully Execute Deed(s), or Plat, for Right-of-Way(s) Perform Title Search(es), Prepare Deed(s), or Plat(s), or right(s) of entry or easement(s), if required
 8. Adoption of Ordinance by the Commission
 - Formal Notification to Property Owners with Copy of Ordinance
 9. Recordation of Ordinance, Deed(s), or Plat, for Right-of-Way(s), if required
 10. Preparation of Plans and Specifications by MetCom selected designer
 - Zoning, SHA, Sediment Control, Construction Plans and Permitting
 - Survey and Design Plans
 11. Scheduling and Construction and Inspection
 - Dependent on approval of capital funding and workload
 12. Acceptance of Water / Sewer Extension(s) into MetCom’s Maintenance System
 - Acceptance of Work and As-built Approval
 - Update Asset Management and Insurance Inventory
 13. Final Assessment of Costs
 - Project Closeout and Legal Review

- Verification of Assessment by the Fiscal Department. Individual assessments may be non-uniform per Code (*ie. front footage, etc.*), but a uniform assessment per lot is acceptable
14. Prepare Levy Ordinance and request Public Hearing for Adoption by the Commission and Commissioners of St. Mary's County and Recordation. *NOTE: Recordation allows title searches to find the levy associated with the property as a part of the sale of the property (protects the unwary home buyer).*
 15. Amount owed / remaining balance owed should be placed on the property water / sewer bills. *NOTE: This allows a potential buyer to be aware of the special assessment and flags the account in the event of a property transfer (protects MetCom from a potential lien situation by requiring the balance to be paid in full before the account can be transferred to another name).*
- MetCom shall bill the owner of each benefitted property for the proportionate share of costs assigned to each property on a monthly basis on their respective utility bills. **Payment of the line extension fee is mandatory and independent of whether the parcel owner chooses to connect to the water and/or sewer system when available to the parcel owner.**
 - No down payments are required and there are no penalties for early payoff. Property owners may pay their share of the costs in full up front upon receipt of such a bill or may have the amount recorded as a lien on their parcel. Such lien should be payable in equal installments of principal by no more than twenty (20) years, subject to the actual rate at the time the debt was incurred or any interest rate determined by MetCom as being representative of its embedded interest rate on long term debt.
 - If the property is sold before the lien is paid in full, then the balance of such lien should be paid in full at the time of sale of the property.

INITIAL PETITION / LETTER OF INTEREST (SAMPLE)
Special Benefit Assessment / Service Extension Fee

In accordance with Chapter 113-9 of the St. Mary's County Code, the undersigned property owners in the proposed Special Benefit Assessment "District" request the St. Mary's County Metropolitan Commission take the necessary steps in order to hold a public informational meeting. The purpose of the meeting is to determine the nature, extent of work, and the associated costs required to extend public water and/or sewer infrastructure to the properties identified in this Petition, _____ Election District, St. Mary's County, Maryland, for inclusion into the Commission's maintenance system. The proposed boundaries of the "District" are shown on the attached sketch/map and includes all participating benefitted properties.

We understand that our request, if approved, will also require submission of a signed petition from 100% of the benefiting property owners so that the Commission may schedule and hold a public hearing for the establishment of the special benefit assessment charge associated with the aforementioned improvements to the public water and/or sewer system. We further understand that our request, if approved, will require repayment of actual costs by the benefitted properties and any interest accrued.

TAX MAP _____

Parcel _____ Lot _____ Printed Names _____,
Mailing Address _____, Phone Numbers _____,
Signatures _____

Parcel _____ Lot _____ Printed Names _____,
Mailing Address _____, Phone Numbers _____,
Signatures _____

Parcel _____ Lot _____ Printed Names _____,
Mailing Address _____, Phone Numbers _____,
Signatures _____

Parcel _____ Lot _____ Printed Names _____,
Mailing Address _____, Phone Numbers _____,
Signatures _____

Parcel _____ Lot _____ Printed Names _____,
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