

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-32-05

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the County Administration Building in New Kent, Virginia, on the 12th day of December, 2005:

Present	Vote
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Nay
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Trout, which carried 4:1 to adopt the following ordinance:

**ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF NEW KENT, VIRGINIA AMENDING THE
SEWER CONNECTION FEE PROVISIONS IN CHAPTER 38
OF THE CODE OF NEW KENT COUNTY**

WHEREAS, the Board of Supervisors of New Kent County adopted an ordinance providing a due date for the payment of sewer connection availability fees and allowing for such payments to be made, in certain circumstances, in installment payments; and

WHEREAS, the provisions of pertaining to the agreement that may be entered into with the County for such installment payments did not provide for alternative payment arrangements and alternative forms of security; and

WHEREAS, it may be in the public's interest to permit alternative arrangements for the payment of the availability fee and for the types of security.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of New Kent County under authority granted to it by Virginia Code §§15.2-2119 and 15.2-2143 that Section 92 of Chapter 38 be repealed and reenacted as follows:

Sec. 38-92. Rates and fees.

(a) Generally.

Pursuant to Virginia Code, §§15.2-2119 and 15.2-2143, the rates and fees for water and sewer use and for connecting to such systems shall be as set out in Appendix A of this Code.

(b) Sewer connection fees; terms of payment.

(1) Sewer Connection Availability Fee.

a. The Due Date for payment of the sewer connection availability fee shall be the first of the following to occur:

1. No later than sixty (60) days from the enactment of the ordinance creating a planned unit development or the approval of a preliminary subdivision plat containing three or more lots; or
2. At time of an application for a certificate of occupancy is made.

b. Payments must be made in full by the Due Date unless a Sewer Availability Fee Agreement, as provided in paragraph “e” below, has been entered into with the County prior to the Due Date.

c. The amount of the availability fee payment due will be based on the following calculations:

1. The number of residential lots or units and the meter size required, and, if applicable,
2. The equivalent residential usage for any commercial and industrial property identified in the preliminary subdivision plat or authorized in the planned unit development ordinance.
 - i. The fee will be based on the charge for a 5/8” meter multiplied by the number of residential lots or the number of equivalent residential units for commercial and industrial uses.
 - ii. The equivalent residential usage is an estimate; therefore at time of application for a certificate of occupancy, additional connection availability fees

may be owed. If such fees are owed, the availability fee shall be based on actual meter size.

- iii. Whenever equivalent residential units are used to estimate the amount of reserved capacity, the developer must provide a method of allocating the reserved capacity. Such allocation method must be set forth in the sewer connection availability fee agreement.
- d. If subsequently more residential lots or units are approved, the sewer connection availability fees for the additional lots or units must be paid within sixty (60) days of approval of the revised subdivision plat or the adoption of the amended ordinance.
- e. Payment of the sewer connection availability fee for subdivisions of three or more lots or units, or planned unit developments may be deferred or made in installments pursuant to a sewer connection availability fee agreement entered into with the County. The minimum requirements for such an Agreement are:
 1. The Agreement must be entered into before the Due Date.
 2. The Agreement may provide for no greater than five installment payments and each installment shall be in equal amounts. The final payment shall be made no later than four years from the Due Date or at the date of the last connection usage fee payment is made, whichever occurs earlier. The County reserves the right to require a term of less than four years if the projected build out of development is for a period less than four years from approval.
 3. The first installment payment must be made at the time of execution of the Agreement.
 4. The payment obligations under the Agreement must be backed by cash, a bond, or a letter of credit provided in a form acceptable to the Board of Supervisors. Such security must be provided at the time of execution of the Agreement. The amount of security provided under this section shall be reduced as the sewer connection availability fee payments are received by the County.

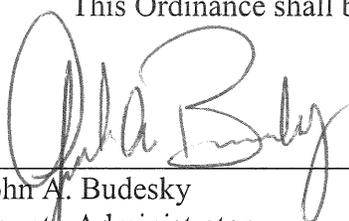
- f. With the recommendation of the County Administrator, the property owner/developer may request that the Board of Supervisors approve alternative payment and security arrangements under the following terms:
 - 1. Such deviation from the requirements serves a public interest rather than a private interest;
 - 2. There is good cause shown;
 - 3. Adequate and sufficient consideration is provided; and
 - 4. An agreement is entered into that is backed by security acceptable to the Board of Supervisors.
- g. Sewer connection availability fees are non-refundable.
- h. If a property owner has paid a sewer connection fee for service to that property before November 3, 2004, no connection availability fee shall be due. If, due to any subsequent subdivision or development of that property, additional connections and/or a larger meter(s) is (are) required to provide service to that property, the connection availability fee shall then be due in full.

(2) Connection Usage Fees.

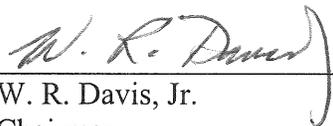
The Due Date for payment of the connection usage fee shall be

- a. The earlier of the time an application for a certificate of occupancy is submitted or at connection to the water and/or sewer system; or
- b. At an earlier date pursuant to an agreement entered into and approved by the Board of Supervisors.

This Ordinance shall be effective immediately upon adoption.



John A. Budesky
County Administrator



W. R. Davis, Jr.
Chairman