

Chapter 113 SANITARY DISTRICTS^{1, 2}

¹ History--Adopted and amended as indicated in text.

² Note--Ch. 341, 1967, amending the subtitle "Sanitary Districts" in Article 43 of the Annotated Code, made it inapplicable in St. Mary's County.

GENERAL REFERENCES

Authority for sewer use regulations--See Ch. 26, § 26-14.

Sewer use regulations--See Ch. 260.

Sec. 113-1. Commission; appointment; tenure; staff.

Sec. 113-2. Same; powers and duties.

Sec. 113-3. Sanitary districts.

Sec. 113-4. Sanitary district boundary lines.

Sec. 113-5. New facilities; studies; plans.

Sec. 113-6. Bonds; authorized, restriction, issue.

Sec. 113-7. **Bonds, delinquency**; levy of taxes; penalty.

Sec. 113-8. Bids and contracts.

Sec. 113-9. Repealed.

Sec. 113-10. Connections required.

Sec. 113-11. Permits and regulations of use.

Sec. 113-12. Connection charges.

Sec. 113-13. Discontinuance of service.

Sec. 113-14. Service rates.

Sec. 113-15. Connections with other systems.

Sec. 113-16. Other systems; acquisition, general.

Sec. 113-17. Private systems; new.

Sec. 113-18. Entry upon roadways.

Sec. 113-19. Entry into buildings; **access to facilities.**

Sec. 113-20. Obstructions.

Sec. 113-21. Penalties.

Sec. 113-22. Church property.

Sec. 113-23. Rules and regulations.

Sec. 113-24. Inconsistent laws.

Sec. 113-25. Condemnation of municipal facilities.

Sec. 113-26. Reimbursable work.

Sec. 113-27. Construction.

Sec. 113-28. Severability.

Sec. 113-29. System improvement charges.

Sec. 113-1. Commission; appointment; tenure; staff.

A. For the purpose of carrying out the provisions of this chapter, the sanitary districts created are under the jurisdiction of the Commission of seven (7) voting members and one (1) nonvoting member. Each voting member of the Commission shall be appointed

by the Board of County Commissioners of St. Mary's County as follows: one (1) member from each of the first, third, sixth, seventh and eighth districts, one (1) member from the second and ninth election districts and one (1) member from the fourth and fifth election districts. Each voting member shall reside in the election district he represents, be a resident taxpayer of the county and be a qualified voter. The voting members of the Commission shall be appointed and shall serve at least one (1) three-year term and shall serve thereafter until their successors are appointed and have qualified. The nonvoting member of the commission shall be the commanding officer of the Patuxent River Naval Air Station or a designated representative of the commanding officer. The nonvoting member shall represent the interests of the United States Navy with respect to the water and sewer services provided by the Commission to the Patuxent River Naval Air Station and the Webster Field Annex. The nonvoting member shall serve until the succeeding commanding officer is appointed. If the commanding officer designates a representative, the representative shall serve at the pleasure of the commanding officer and may be replaced at any time. Those persons serving as members of the Commission immediately prior to June 1, 1976, shall continue to serve in their respective positions until the expiration of their terms. As the term of each voting member expires, his successor shall be appointed by the Board of County Commissioners of St. Mary's County. Except for a nonvoting member, any vacancy in the membership of the Commission shall be filled by appointment by the Board of County Commissioners of St. Mary's County for the unexpired term.

B. *Representative of Board of County Commissioners as liaison with Commission.* 3

C. *Officers and personnel.* The Commission shall elect one (1) of its members as Chairman and one (1) of its members as Vice Chairman, who shall serve in the absence or disability of the Chairman. The Commission shall appoint, discharge at pleasure and fix the compensation of a Director, a Secretary, a Treasurer, a Chief Engineer and engineering, legal, clerical and other personnel and help which the Commission deems necessary to carry out the provisions of this chapter. The creation of any new position by the Commission is subject to the prior approval of the Board of County Commissioners of St. Mary's County.

D. The annual compensation of each voting member of the St. Mary's County Metropolitan Commission shall be determined by the Board of County Commissioners of St. Mary's County. The annual compensation shall be payable quarterly, or more frequently as may be prescribed by the Board of County Commissioners. A nonvoting member may not receive compensation.

E. The Treasurer appointed by the Commission shall be the collector of all charges and assessments made by the Commission and shall receive and account for all moneys which shall be due and payable to the Commission from any source. The Commission may appoint the same person Secretary and Treasurer, in which case the official title of that person shall be Secretary-Treasurer. The Commission may appoint also a Deputy Treasurer to Act in the absence of the Treasurer. All moneys deposited shall be protected by a depository bond or by other securities approved by the Commission. The Treasurer and any Deputy Treasurer appointed by the Commission shall give bond to the State of Maryland, the Commission and the Board of County Commissioners of St. Mary's County to the amount of twenty-five thousand dollars (\$25,000.00) or a greater amount that the County Commissioners prescribe, with a good and sufficient surety, to be

approved by the County Commissioners. The bond shall provide, in a form approved by the Maryland Insurance Administration and the County Attorney, that if the individual giving the bond shall well and faithfully execute that individual's office and account to the commission for all moneys received on behalf of the Commission without fraud or delay, the required bond obligation shall be null and void, but shall otherwise remain in full force and effect. The bond, when approved, shall be recorded in the office of the Clerk of the Circuit Court for St. Mary's County. The person so appointed, before entering upon the duties of his office, shall take an oath before the Clerk of the Circuit Court for the county, in form similar to that taken by Collectors of Taxes, except for the title of the office. The Commission may pay the premiums on all bonds. All checks issued by the Commission shall be countersigned by the Chairman or other member of the Commission authorized by the Commission to sign checks in place of the Chairman. The Commission shall publish annually a statement of its revenue and expenditures in a newspaper published in the county.

F. *Audits.* An audit of the official financial affairs of the Commission shall be performed annually by a certified public accounting firm in the state appointed by the Board of County Commissioners. The Commission shall recommend a qualified accounting firm to the Board of County Commissioners on or before June 1 of each year. The audit shall be submitted to the Board of County Commissioners on or before November 1 of each year. The costs of the audit shall be paid by the Commission. (1957, ch. 816, sec. 175; 1967, ch. 342, sec. 157(d); 1970, ch. 380, sec. 157(a); 1976, ch. 911; 1985, ch. 57; 2004, ch. 394; 2005, ch. 45)

3 Note--Repealed 1979, ch. 417.

Sec. 113-2. Same; powers and duties.

A. The members of the Commission are a body politic and corporate, by the name of the "St. Mary's County Metropolitan Commission" (referred to elsewhere in this chapter as the "Commission"), with the right to use a common seal, to sue and be sued and to do any and all other corporate acts for the purpose of carrying out the provisions of this chapter, including, without limiting the generality of the foregoing, the right and power to make and enter into all contracts or agreements as the Commission determines with the federal government, the State of Maryland or any agency or instrumentality of either thereof or with any municipal corporation, county, private corporation, copartnership, association or individual, on terms and conditions which the Commission approves, relating to the performance of the Commission's duties, the execution of its rights and powers, the use by the federal government, the state government or any federal or state agency, municipal corporation, county or private entity or individual of any water supply or sewerage system constructed or acquired by the Commission under this chapter or the services therefrom or the facilities thereof or the use by the Commission of any water supply or sewerage systems owned or operated other than by the Commission.

B. Whenever it is deemed necessary by the Commission to take or acquire any land, structure or buildings, or any streambed, waterway, water rights or watershed, either in

fee or as an easement, within or outside of St. Mary's County, for the construction, extension or maintenance of any water main, sewer or appurtenance thereof, or any sewage treatment plant, reservoir, water treatment plant, storage tank or pumping station, or for the execution by the Commission of any other power or function vested in it by this chapter, the Commission may purchase it from the owners or, failing to agree with the owner or owners thereof, may condemn it by proceedings in the Circuit Court for the county in which the land, structures or buildings, streambed, waterway, water rights or watershed is located, as are provided for condemnation of land by public service corporations in the Public General Laws of Maryland. The Commission may likewise condemn the interest of any tenant, lessee or other person having any right or interest in the land, structures or buildings, streambed, waterway, water rights or watershed. At any time after ten (10) days after the return and recordation of the verdict or award in the proceedings, the Commission may enter and take possession of the property so condemned, upon first paying to the Clerk of the Court the amount of the award and all costs taxed to that date, notwithstanding any appeal or further proceedings upon the part of the defendant. At the time of payment, however, the Commission shall give its corporate undertaking to abide by and fulfill any judgment in such appeal or further proceedings.

(1957, ch. 816, sec. 176; 1976, ch. 911)

Sec. 113-3. Sanitary districts.

A. St. Mary's County is divided into the following ten (10) sanitary districts in accordance with the resolution adopted by the Board of County Commissioners of St. Mary's County on September 14, 1972, recorded in Liber No. 1, page 189, entitled "County Commissioner Resolutions," as set forth on a plat of St. Mary's County showing the sanitary district lines, which plat was recorded among the land records of St. Mary's County, Maryland, in Plat Book D.B.K. No. 10, Folio 43, on April 26, 1973. The resolution of the Board of County Commissioners adopted and approved a resolution of the St. Mary's County Metropolitan Commission duly adopted on August 16, 1972. The sanitary districts are also set forth on a plat of St. Mary's County showing the same sanitary district lines and recorded among the land records of St. Mary's County, Maryland, in Plat Book D.B.K. No. 10, Folio 42A, on February 4, 1976. The plat recorded on April 26, 1973, identifies the sanitary districts by reference to the sewage treatment plants (S.T.P.) serving the sanitary districts (e.g., Luckland S.T.P.); the plat recorded on February 4, 1976, and other plats recorded from time to time in connection with the St. Mary's County Water and Sewerage Plan identify the sanitary districts by the names set forth in this section.

- (1) Luckland Run Sanitary District No. 1.
- (2) Dukehart Creek Sanitary District No. 2.
- (3) Leonardtown Sanitary District No. 3.
- (4) Flood Creek Sanitary District No. 4.
- (5) Piney Point Sanitary District No. 5.
- (6) Lake Conoy Sanitary District No. 6.
- (7) Carroll Pond Sanitary District No. 7.
- (8) Pine Hill Run Sanitary District No. 8.
- (9) Manor Run Sanitary District No. 9.

(10) Indian Creek Sanitary District No. 10.

B. The creation of the sanitary districts is adopted, approved, ratified and confirmed.

The sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts and are subject to all of the provisions of this chapter. C. The Mattapany Sanitary District, previously created and described in Chapter 342 of the Laws of 1967, was enlarged to include all that portion of St. Mary's County designated as the Pine Hill Run Sanitary District No. 8 and was and is now to be known as the "Pine Hill Run Sanitary District No. 8."

D. If the service conditions of any system in a sanitary district are substantially different than conditions of other systems in the district, the St. Mary's County Metropolitan Commission, by resolution, may divide the district into subdistricts. Service conditions include financial aspects of instituting and maintaining service.

(1957, ch. 816, sec. 177; 1966, ch. 174; 1967 ch. 342, sec. 159; 1976, ch. 911; 1983, ch. 48)

Sec. 113-4. Sanitary district boundary lines.

The sanitary district boundary lines of any sanitary district may be changed by the adoption by the Commission of a resolution which shall refer to a plat of St. Mary's County upon which the revised sanitary district lines are shown clearly and which sets forth findings that the change in the boundary lines of any sanitary district is necessary or desirable for the public health, safety and welfare of the residents within the revised sanitary districts and the revised sanitary districts are feasible from an engineering and financial standpoint. The resolution is not legally effective until it is approved by the County Commissioners of St. Mary's County after public hearing held following not less than ten (10) days' notice in one (1) or more newspapers having a general circulation in St. Mary's County and until a copy of the resolution and plat is recorded among the land records of St. Mary's County. Upon approval by the County Commissioners of St. Mary's County and filing of the plat and resolution as provided in this subsection, the revised sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts, are subject to all the provisions of this chapter. The filing of the plat and resolution constitutes legal notice to the public of the action of the Commission and the County Commissioners.

(1967, ch. 342, sec. 159A; 1975, ch. 160, sec. 159A(3); 1976, ch. 911)

Sec. 113-5. New facilities; studies; plans.

A. The Commission shall cause studies, plans and estimates to be made for water supply and sewerage systems in those portions of St. Mary's County in which the Commission determines that the facilities are necessary and may divide each sanitary district into water and sewerage districts in such a way as shall, in its judgment, best serve the needs of the various communities and shall promote convenience and economy of installation and operation. Whenever, and as, the studies and plans are completed, the Commission shall give notice by publication in one (1) newspaper published within the county for three (3) weeks. The Commission shall state in the notice the probable cost of the contemplated improvements and shall further state in it that plans of the improvements may be inspected at the Commission's office and that any person interested in the improvements will be heard by the Commission at a time to be specified in the notice, but

not less than ten (10) days after first publication of it. If ten (10) residents and landowners in the sanitary district in which the improvements are contemplated, within ten (10) days after the last of the publications of the notice, file a petition with the Commission protesting against the proposed improvements, the Commission shall grant them a hearing within fifteen (15) days after the petition is filed in the office of the Commission and after not less than five (5) days' notice of the time and place of the hearing by advertisement published in one (1) newspaper published within the county and by personal notices addressed to any one (1) or more persons whose names are signed to the petition. After due hearing, the Commission shall decide upon the reasonableness of the objections stated in the petition and shall dispose of them by written order concurred in by a majority of the Commissioners. The order shall be published in the same manner as notices are required to be published, and a copy of which shall be mailed to any one (1) or more of the petitioners. If the petitioners are not satisfied with the Commission's decision, they have the right to take and enter, within ten (10) days after the last publication of the order, an appeal to the County Commissioners of St. Mary's County, who shall review the Commission's decision and decide on the necessity and propriety of the improvements contemplated. The decision of the County Commissioners is final.

C. Advances for expenses and costs. For the purpose of providing for the studies, plans, organization and any other expenses or costs of any water or sewerage facilities, the County Commissioners may furnish the Commission from time to time any sum that the County Commissioners deem proper, all of which shall be repaid out of the next bond issue, if any. If the County Commissioners do not expect bonds to be issued within two (2) years of the date on which the sum is furnished to the Commission, the County Commissioners may waive repayment of the advances. The authority for advances granted by this subsection is in addition to other advances authorized by this chapter.

D. Entry onto private lands.

(1) For the purposes of carrying out the provisions of Subsection A of this section, after bona fide efforts to notify the owner and occupant, an agent or employee of the Commission may enter on any private land to make test borings and soil tests and obtain information related to the tests for the purpose of determining soil characteristics and suitability of the surface and subsurface of the land for the installation of public water supply or sewerage systems.

(2) If an agent or employee is refused permission to enter or remain on private land for the purposes authorized by subsection D(1), the Commission may apply to the St. Mary's County Circuit Court for an order directing that its agent or employee be permitted to enter and remain on the land to the extent necessary to carry out the purposes authorized by this subsection. The court may require that the Commission post a bond in an amount sufficient to reimburse any person for damages reasonably estimated to be caused by test borings, soil tests and related activities.

(3) If any person enters on any private land under the authority of this subsection or of any court order passed pursuant to it and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the Commission.

(4) Any person who knows of an order issued under this subsection and who obstructs any agent or employee acting under the authority of the order may be punished for contempt of court.

(1957, ch. 816, sec. 178; 1967, ch. 342, sec. 160; 1976, ch. 911; 1981, ch. 84; 1983, ch. 232)

Sec. 113-6. Bonds; authorized, restriction, issue.

A. For the purpose of providing funds for the design, construction, establishment, purchase or condemnation of water supply and sewerage systems in any of the sanitary districts, the Commission, upon the approval of the County Commissioners of St. Mary's County, is authorized and empowered to issue bonds, from time to time, upon the full faith and credit of St. Mary's County, in such amounts as it may deem to be necessary to carry on its work, but at no time shall the total issue of bonds for all purposes under this chapter exceed twenty-five (25) percent of the total value of the property assessed for county taxation purposes within **all of the sanitary districts in which public water and/or sewer facilities are located**. Subject to the conditions contained herein, the form, tenor, manner of selling and all other matters relating to the issuance of bonds under this chapter shall be prescribed in a resolution to be adopted by the St. Mary's County Metropolitan Commission prior to sale of the bonds. The issuance of such bonds may not be subject to any limitations or conditions contained in any other law, and the Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission and the County Commissioners of St. Mary's County. The bonds shall be serial bonds issued upon the serial maturing plan and in such denominations as shall be determined by the Commission. The bonds may be redeemable before maturity at the option of the Commission at such price and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds, shall bear interest at such rate or rates payable semiannually, as shall be determined by a resolution of the St. Mary's County Metropolitan Commission adopted prior to the delivery of the bonds, and shall mature in not more than thirty (30) years after date of issue and shall be forever exempt from state, city and county taxation as hereinafter provided. They shall be issued under the signature and seal of the Commission and shall be unconditionally guaranteed as to payment of both principal and interest by the County Commissioners of St. Mary's County, a political subdivision of the State of Maryland, which guaranty shall be endorsed on each of the bonds in the following language: "The payment of interest when due and the principal at maturity is guaranteed by the County Commissioners of St. Mary's County, Maryland." Such endorsement shall be signed on each of the bonds by the President and by the Clerk of the Board of County Commissioners of the county, or another person lawfully assigned to the functions of the Clerk, within ten (10) days after the bonds are presented by the Commission to them for endorsement.

B. The principal amount of bonds issued hereunder, the interest payable thereon, their transfer and any income derived therefrom, including any profit made in the sale or transfer thereof, shall be and remain exempt from taxation by the State of Maryland and by the several counties and municipal corporations of this state.

(1957, ch. 816, sec. 179; 1966, ch. 175; 1967, ch. 342, sec. 161; 1970, ch. 396; 1976, ch. 911; 1977, ch. 563)

Sec. 113-7. **Bonds; delinquency; levy of taxes; penalty.**

A. For the purpose of retiring the bonds authorized to be issued by this chapter and of paying the interest thereon, the Commission, **by and through the County Commissioners of St. Mary's County**, shall cause to be levied, against all assessable property within the sanitary districts **in which public water or sewerage facilities are located,** so long as any of the bonds are outstanding and not paid, an **annual** tax sufficient to provide the sum which the Commission may deem sufficient and necessary, in conjunction with any amounts as the Commission may estimate that it will be able to collect out of the **System Improvement Charges**, **Capital Contribution Charges** and charges levied by it but not yet paid and any further funds then available for the purpose, to meet the interest on the bonds as it becomes due and to pay the principal thereof as the bonds mature. The tax shall be determined, levied, collected and paid over in the manner following, that is to say, at least seventy-five (75) days before July 1 of each year, the County Commissioners shall certify to the Commission the whole valuation of the assessable property within **the sanitary districts in which public water and/or sewer facilities are located.** The Commission shall then determine, in the manner above prescribed, the amount which it deems necessary to be raised during the ensuing year for the payment of interest on outstanding bonds and principal of all serial bonds maturing in the year, and after deducting all amounts in hand, or in contemplation, applicable to payments of the principal of and interest on the bonds as hereinbefore and hereinafter in the chapter provided, it shall determine the number of cents per one hundred dollars (\$100.00) necessary to raise the amount **needed,** and shall certify same to the Board of County Commissioners at least sixty (60) days before July 1 of each year. The County Commissioners in their next annual levy shall levy the tax on all land and improvements and all other property assessed for county tax purposes within the **sanitary districts in which public water and/or sewer facilities are located,** which tax shall be levied and collected and have the same priority rights, bear the same interest and penalties and in every respect be treated the same as county taxes. The tax so levied for the ensuing year shall be collected by the tax collecting authorities, and every one hundred twenty (120) days they shall remit the whole amount of the tax so collected to the Commission. From the money so received, together with the amount in hand to the credit of fund or funds for the payment of the principal of and interest on the bonds, the Commission shall first pay all of the principal of and interest on the bonds as it becomes due and shall then deposit the residue of the moneys in some bank or banks in the county to the joint credit of the County Commissioners and the Commission. The Commission is authorized to pay the interest on any bonds it may issue out of the proceeds of the sale of the bonds, but not more than two (2) years' interest may be expended. Nothing contained in this section or in this chapter shall be construed as in any manner relieving the County Commissioners of St. Mary's County of its unconditional pledge of its full faith and credit and unlimited taxing power to the payment of principal of and interest on any bonds issued by the Commission pursuant to Section 161.4

B. In each year in which any bonds issued pursuant to this chapter are outstanding and unpaid, the County Commissioners shall levy and collect a tax upon all property subject to assessment for taxation by St. Mary's County in rate and amount sufficient to provide an amount, if any be necessary, which, together with any other amounts lawfully available and applied for the purpose, shall be sufficient to provide for the payment of the principal of and interest on all such bonds when they become due and payable.

4 Cross Reference--See § 113-6 of this chapter.

C. Penalty. In order that the prompt payment of interest and the proper provision for the payment of the principal of said bonds shall be assured, the prompt and proper performance of the respective acts and duties heretofore defined is specifically enjoined, and any failure upon the part of any person, persons, body corporate or agent to perform the necessary acts and duties hereafter set forth to pay over the funds as required, or to use the funds for the payment of the principal of and interest on the bonds, is hereby declared a misdemeanor and punishable as other misdemeanors are punishable by Section 176.5

(1957, ch. 816, sec. 180, 1965, ch. 87, sec. 180; 1965, ch. 694, sec. 180; 1967, ch. 342, sec. 162(a); 1970, ch. 318; 1974, ch. 496, sec. 162(a); 1975, ch. 162, sec. 162(a); 1976, ch. 911)

5 Cross Reference--See § 113-21 of this chapter.

Sec. 113-8. Bids and contracts.

Whenever the studies and plans for water supply or sewerage systems for any sanitary district shall have been completed and the Commission shall have decided, after opportunity for a hearing has been given, to proceed with the construction thereof, it shall advertise, by notice in one (1) newspaper published in St. Mary's County and such newspapers and technical press as it may deem proper, for bids for the construction of said system or systems, in part or as a whole, as in its judgment may appear advisable. The contract shall be let to the lowest responsible bidder or the Commission may reject any and all bids, and if, in its discretion, the prices quoted are unreasonable or unbalanced, it may readvertise the work or any part of it, or may do or cause to be done any part or all of the work by the competitive procurement of goods, materials and/or services. The Commission shall not expend on any such goods, materials or services an amount exceeding ten thousand dollars (\$10,000.00) without having procured those goods, materials or services by advertising and receiving competitive bids. All such contracts shall be protected by such bonds, penalties and conditions as the Commission may require, all of which shall be enforced in any court having jurisdiction.

(1957, ch. 816, sec. 181, 1974, ch. 233; 1975, ch. 384; 1976, ch. 911)

Sec. 113-9. Repealed.

History--Repealed by 2007, ch. 261.

Sec. 113-10. Connections required.

A. (1) The Commission may provide, for property abutting upon a street or right-of-way in which under this chapter a water main or sewer is laid, a water service pipe or

sewer connection. The water service pipe or sewer connection shall be extended as required, from the water main or sewer to the property line of the abutting lot.

(2) The service pipe or connection with sewer shall be constructed by and at the sole expense of the Commission, but subject to a reasonable charge for the connection as provided in § 113-12 of this chapter. This charge shall be paid by all property owners at the office of the Commission before the actual connection with any pipe or private property is made or by the property owner under such reasonable conditions and charges as are deemed appropriate by the Commission. The method of construction and payment shall be determined by the Commission.

(3) When any water main or sewer is declared by the Commission complete and ready for the delivery of water or the reception of sewage, every abutting property owner for whom a water or sewer connection has been provided, after due notice, shall make a connection of all spigots or hydrants, toilets and waste drains with the water main or sewer within the time prescribed by the Commission. Where those fixtures do not exist or are of a nature which, in the judgment of the Commission, is improper or inadequate, satisfactory equipment shall be installed by the owner on the premises. The premises shall include at least one (1) water closet and one (1) sink or washbasin, both of which shall be properly connected with the sewer of the Commission. All cesspools, sink drains and privies located on properties connected to sewers provided by the Commission shall be abandoned, closed and left in a sanitary condition so that no odor or nuisance shall arise from them.

(4) Any violation of the provisions of this section is a misdemeanor punishable under § 113-21 of this chapter.

B. Notwithstanding Subsection A of this section, when the commission declares abutting properties ready-to-serve on or after July 1, 1993, connection shall be at the property owner's option if the property is located outside the designated service area for which the water main or sewer was intended unless, or until, the private water or sewage disposal system serving the property fails to comply with applicable State regulations. If the private water or sewage disposal system fails to comply with State regulations, connection to the water main or sewer is immediately required. Compliance with § 113-9 of this chapter is not affected by the option under this subsection.

(1957, ch. 816, sec. 183; 1965, ch. 87, sec. 183; 1970, ch. 655, sec. 165; 1976, ch. 911; 1993, ch. 57; 1997, ch. 476)

Sec. 113-11. Permits and regulations of use.

A. *Permits.* Before any plumbing, waterworks or sewer construction is done upon any property within any area served by a public water or sewer system in any sanitary district, whether or not owned or operated by the Commission, the person, firm or corporation doing the construction shall first obtain a permit from the Commission and pay whatever reasonable sum the Commission prescribes. The work shall be done under and pursuant to the rules, regulations and requirements, if any, that the Commission formulates and subject to any inspections which it deems necessary. Connection of any kind may not be made with any public water main or sewer without a permit. Any connection permitted by the Commission shall be done under conditions that the Commission authorizes.

B. *Control of usage.* To eliminate leakage, loss of water or improper use of waterlines or sewers the Commission or its agents or employees may require changes in all

plumbing, waterworks or water or sewer connections which it deems necessary. The Commission shall exercise control of the water supply at all times. In case of a shortage of water or if, for any other reason, the Commission, in the exercise of its discretion, determines that the water supply should be conserved, the consumers, upon notice from the Commission, its agents or employees, or upon notice published in one (1) newspaper published in the county for one (1) insertion, shall comply with any order passed by the Commission to conserve the water supply. Any violation of the order is a misdemeanor punishable under § 113-21 of this chapter. In addition to the penalty prescribed, the Commission may turn off the water supply of any person violating the order at any time without further notice.

C. *Private installations.* A private or semipublic water supply or sewerage installation, intended for use of two (2) or more buildings or premises, may not be constructed in any sanitary district without the person, firm or corporation doing the work having first obtained a permit from the Commission and paid a reasonable charge for it. The plant shall then be installed, maintained and operated under rules and regulations, if any, which the Commission requires or devises. Private systems and additions to existing private systems constructed after May 31, 1976, as a condition of the permit may be required to be dedicated to the Commission at a time as, in the judgment of the Commission, public ownership of the systems and the additions is deemed to be in the best interest of the county.

D. *Hydrants.* The Commission shall have full and complete jurisdiction over all fire hydrants connected with any of its water systems, and a person, firm or corporation may not operate, use or make connection with them without the written authority of the Commission. These restrictions do not apply to any bona fide fire department in the discharge of its duties. A person, firm or corporation may not tamper with, deface, damage or obstruct any fire hydrant.

E. *Meters and valves.* The Commission shall have full and complete jurisdiction over all meters and valves connected with any of its systems, and a person, firm, or corporation may not tamper with, attempt to bypass, or modify them without the written authority of the Commission. A person, firm, or corporation may not deface, damage or obstruct any sewer or water meter.

F. *Penalties.* Any violation of any of the provisions of this section is a misdemeanor punishable under Section 176. 8

(1957, ch. 816, sec. 184; 1965, ch. 87, sec. 184; 1976, ch. 911; 1986, ch. 40)

8 Cross Reference--See § 113.21 of this chapter.

Sec. 113-12. Connection charges.

A. (1) In this section, the following words have the meanings indicated.

(2) CAPITAL CONTRIBUTION CHARGE means an amount based on capital costs that is imposed and collected on a new EDU connection to a water supply or sewerage system under this Chapter.

(3) CONNECTION CHARGE means a Capital Contribution Charge or connection fee.

(4) CONNECTION FEE means an amount based on the cost of connection that is imposed on a new connection to a water supply or sewerage system under this Chapter.

(5) EDU means an equivalent dwelling unit.

(6) PUBLICATION means notice to all persons having any interest in the property.

B. (1) For every new water or sewer connection made under this Chapter, the Commission **may, in its discretion,** impose and collect a reasonable connection fee, that is not less than the actual cost of connection.

(2) The connection fee shall be uniform throughout a designated service area for connections of those sizes and classes for which average costs reasonably may be ascertainable, and for all other connections, the connection fee shall be an amount not less than the actual cost of the connection.

(3) The Commission may revise the connection fee annually.

(4) Connection fees collected by the Commission shall be applied to paying the actual cost of the connections.

(5) The connection fee shall be due and payable to the Commission at the time the property owner makes an application or is otherwise required to connect to a water main or sewer.

(6) If the property owner fails to make the connection by the time required by the Commission as set forth in § 113-10 of this Chapter, the connection fee shall become due and payable on the connection deadline date, shall be assessed immediately, and shall be subject to the rules of collection provided in subsection D of this section.

C. (1) In addition to the connection fee, the commission shall impose and collect a **Capital Contribution Charge** for each new EDU connected to a water supply or sewerage system under this Chapter.

(2) The **Capital Contribution Charges** collected shall be used by the Commission to pay:

(A) The capital costs of construction new water supply or sewer collection systems, to the extent that the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital cost of central treatment facility capacity expansion, as the projects are identified in the Commission's six-year capital improvement plan;

(C) Existing bonds issued as of October 1, 2007, to fund the costs of central treatment facility capacity expansions, but limited to that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007; and

(D) Existing bonds issued as of October 1, 2007, to fund the costs of constructing water supply or sewer collection systems, but limited that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007.

(3) (A) The **Capital Contribution Charge** shall be assessed on a per EDU basis and shall be a uniform charge, assessed equally to **properties of similar classification throughout all sanitary districts. There shall be a uniform rate applicable to residential properties and a uniform rate applicable to commercial properties. Additional uniform rates may be created at the discretion of the Commission for other property classifications as the Commission may deem necessary and appropriate.**

(B) The Commission may revise the **Capital Contribution Charge** annually.

(C) The **Capital Contribution Charge** shall be due and payable to the Commission at the time a property owner makes an application or otherwise is required to connect to a water main or sewer.

(D) If the property owner fails to make the connection by the date required by the Commission as set forth in § 113-10 of this Chapter, the Capital Contribution Charge shall:

(I) Become due and payable on the connection deadline date;

(II) Be assessed immediately; and

(III) Be subject to the same rules of collection provided in subsection D of this section.

(4) For purposes of determining the Capital Contribution Charge, the capital costs referred to in paragraphs (2)(A) and (B) of this subsection shall include the principal of, interest on, and any redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the Capital Contribution Charge is calculated, the Commission may, in calculating the Capital Contribution Charge, establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue.

(B) The schedule and related Capital Contribution Charge provided in subparagraph (A) of this paragraph may be adjusted by the Commission when planned future bonds are issued.

D. (1) The connection charges set forth in subsections B. and C. of this section shall be payable at the Office of the Commission at a time that is determined by the Commission.

(2) If any connection charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) If all or any part of a connection charge remains unpaid after thirty (30) days after the due date of payment, the entire unpaid connection charge shall be overdue and in default, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding, and subject only to prior State and County taxes, the connection charge shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The connection charges shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the connection charges shall be sold for the connection charges at the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the connection charges.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the connection charges due on it are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer main, the Commission shall keep a public record of all names of owners of property, locations of the property, lot numbers when of record, and the amount of the connection charges or other charges that may become liens.

(8) The records shall be kept in the land records of St. Mary's County, and the Clerk of the Circuit Court for the County shall furnish space necessary to keep and preserve the records, that, when recorded in the public record, are legal notice of all existing liens within any sanitary district.

(9) If any liens, connection charges, or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

(10) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

E. For property owners who elect to defer connection under section 113-10B of this Chapter, the connection charges described in this section shall include an additional cost reflecting the delay in connection.

(1957, ch. 816, sec. 185; 1976, ch. 911; 1986, ch. 57; 1993, ch. 57; 1997, ch. 476; 2007, ch. 261)

Sec. 113-13. Discontinuance of service.

In addition to any other powers and penalties contained in this chapter, the Commission may discontinue water and sewer service for nonpayment of any service, connection, inspection, benefit or any other charge if not paid within thirty (30) days of the due date. In addition to payment of the bill, the Commission shall collect a turnoff and turn-on charge before resuming service.

(1957, ch. 816, sec. 186; 1965, ch. 87, sec. 186; 1975, ch. 159, sec. 168; 1976, ch. 911; 1983, ch. 47)

Sec. 113-14. Service rates.

A. For the purpose of providing funds for maintaining, repairing and operating its water supply and sewerage systems, for line extensions of them, for its administrative and other expenses, including proper depreciation allowances, if any, and for interest on and the retirement of bonds as specified in this chapter, the Commission may make service rates, as it deems necessary, on water lines and sewers chargeable against all properties having a connection with any water pipe or sewer pipe under its supervision or ownership. The service rates so established may include any State or Federally mandated fees or charges as may be established from time to time. The rate for both water and sewer service shall be uniform throughout a sanitary district, subject to changes that the Commission considers necessary. Beginning on July 1, 1993, the rate for both water and sewer service shall be uniform throughout all sanitary districts, subject to changes that the Commission considers necessary. However, where the Commission provides service to property in an area in which it is economically 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 impose an additional service charge to meet the additional cost of providing service to the property. The Commission may collect a reasonable deposit in advance of furnishing water or sewerage service. The Commission shall begin the assessment of water and sewer service rates either at the time of the connection of all spigots or hydrants, toilets, and waste drains to a

water main or sewer or on the expiration of the deadline for connection as required by the Commission in accordance with § 113-10 of this Article, whichever occurs first.

B. Sewer service rates. The sewer service rates shall be reasonable and shall be charged to all properties being served in a given sanitary district.

C. Water service charges; meters. The water service charge shall consist of a minimum or ready-to-serve charge, which shall be based upon the size of the meter on the water connection leading to the property, and of a charge for water used, which shall be based upon the amount of water passing through the meter in excess of any water included in the minimum or ready-to-serve charge during the period between the last two (2) readings. The meter shall be placed on water connections as determined by the Commission. If the Commission at any time determines not to have meters installed in all the properties in a given sanitary district that are connected to the system, then a reasonable flat rate, as determined by the Commission, shall be charged to all properties in which meters have not been installed. This rate shall be uniform within a sanitary district.

D. Bills; collection. Bills for the amount of the charges shall be sent monthly, quarterly or semiannually, as the Commission determines, to the owner of each property served and are then payable at the office of the Commission. If any bill remains unpaid after thirty (30) days from the due date or dates specified in it, the bill is overdue and the Commission may begin collection proceedings. At the request of the owner, bills for services may be sent, at the discretion of the Commission, to persons or entities other than the owner, provided that the owner states in his request that any bill so mailed will be considered as notice to him as if it were mailed to the owner in accordance with above.

E. When a bill is overdue and after written notice is left upon the premises or mailed to the last known address of the owner, the Commission shall turn off the water or sewer, if possible, from the property in question. The water or sewer service may not be resumed until the bill or bills, and a charge as determined by the Commission to cover costs incurred to turn off and to turn on the water or sewer service, have been paid.

F. Late charges. If any charges remain unpaid for a period of thirty (30) days after the due date for payment, a late charge at a rate not to exceed one and five-tenths (1 5/10) percent per month may be made by the Commission until all delinquent charges are paid, the late charge to be in addition to all other charges.

G. Liens. If any bill shall remain unpaid for thirty (30) days after the due date, it shall be collectible from the owner of the property served in the same manner as other debts are collectible in the county. The service charges and all penalties and late charges shall be a first lien against the property, and the same procedures as set forth in § 113-12D of this chapter shall be followed by the Commission in collecting those debts.

(1957, ch. 816, sec. 187; 1965, ch. 694, sec. 187; 1970, ch. 655, sec. 169; 1975, ch. 163; 1976, ch. 911; 1983, ch. 49; 1986, ch. 41; 1992, ch. 18710 ; 2007, ch. 261)

10 Editor's Note--This Act also provided that it shall take effect October 1, 1992.

Sec. 113-15. Connections with other systems.

The Commission shall have full power and, authority to enter into any contract for the connection of its water supply or sewerage system or any part thereof with any publicly or privately owned system for the purchase or sale of water and for the collection, treatment and disposal of sewerage, and to enter into any other agreement concerning any other matter and on such terms deemed by the Commission to be necessary, advisable or expedient for the proper construction, maintenance and operation of the water supply or sewerage systems under its control or those under the control of any public or private body.

(1957, ch. 816, sec. 188; 1970, ch. 655, sec. 170; 1976, ch. 911)

Sec. 113-16. Other systems; acquisition, general.

A. *Purchase.* Whenever the Commission considers it advisable and proper for the adequate provision of water or sewer service in any sanitary district to assume ownership or privately owned water or sewerage systems, it may purchase them upon such terms and conditions as may be agreed upon but shall have no right of condemnation with respect thereto, but before any part of the purchase price is paid, other than a nominal sum of money to bind the agreement, it shall be the duty of the vendor or agent to furnish a statement to the Commission setting forth all names and addresses of persons having any interest or claims against the property whatsoever, which shall be verified by an oath in writing. Thereupon it shall be the duty of the Commission to notify personally or by registered or certified mail, return receipt requested, all persons having any interest whatsoever in the property, and in addition thereto the Commission shall give three (3) weeks' notice of its intention to purchase the property in a newspaper or newspapers published within the county in which the property is located, and each person having any claim whatsoever against the property shall file his, her or its claim with the Commission on or before the expiration date mentioned in the notice, at which time any and all persons will be heard and their rights determined by the Commission, which hearing shall be final.

B. *Effect of sale.* From and after payment to the proper parties of the agreed purchase price, or other amounts found to be due by the Commission, the Commission may take possession of, maintain and operate the system, whether private or municipal, as part of its general system. From the date of the payment, all properties along the line of any water main or sewer of the system as acquired shall stand in the same relation, bear the same **System Improvement Charge** and be subject to the same regulations and penalties as though the system so acquired had been constructed and put into operation by the Commission under the provisions of this chapter. However, a building or premises actually connected in an adequate manner with the acquired system at the time of its purchase may not be required to pay any connection charge.

C. *Unfit systems.* Whenever there is in existence a privately owned water supply or sewerage system which in the judgment of the Commission is unfit, as a whole or in part, for incorporation with the Commission's system, the Commission shall disregard the existence of the system or unfit part of it and extend a system or construct a new system to serve the area of the existing system or unfit part. All the provisions of this chapter relating to systems constructed by the Commission apply to the extension or new system.

D. *Municipal systems.* Any municipal corporation whose system is acquired by the Commission may use the amount paid to it for the system for the purchase or redemption

of any bonds or debt which may be outstanding against it, or the Commission may, as part of the purchase price of the system, assume the payment of any such outstanding bonds.

(1957, ch. 816, sec. 190; 1976, ch. 911)

Sec. 113-17. Private systems; new.

After June 1, 1957, whenever the property owners or residents of any locality in a district desire a water supply or sewerage system, or part of them, to be constructed in that locality and the Commission decides that it is inexpedient or impracticable at that time, owing to the remoteness of the locality from one of its systems or other causes, to build such system, the owners or residents may build the system at their own expense.

However, it shall be constructed under plans and specifications approved by the Commission and under its supervision, and its maintenance and operation shall be under the general control of the Commission. All cost incurred by the Commission for the services, i.e., to supervise, maintain or control the construction project, shall be paid for in advance by the property owners or individuals concerned. The system, or part of it, the water main, sewer, water purification or sewerage treatment plant and a connection with any of them may not be constructed or installed except as provided in this section. Any violation of this provision is a misdemeanor punishable under Section 176.11 All construction records, including cost records, shall be filed with the Commission.

(1957, ch. 816, sec. 191; 1965, ch. 730; 1976, ch. 911)

11 Cross Reference--See § 113-21 of this chapter.

12 Cross Reference--See § 113-21 of this chapter.

Sec. 113-18. Entry upon roadways.

The Commission may enter upon and excavate any state, county or municipal street, road or alley or any other public highway for the purpose of installing, maintaining and operating the water supply or sewerage systems provided for under this chapter, and it may construct in any such street, road, alley or public highway a water main or sewer, or any appurtenance thereof, without the payment of a charge. However, whenever any state, county or municipal highway is to be disturbed, the public authority having control of it shall be duly notified. The highway shall be repaired and left by the Commission in the same condition as, or in a condition not inferior to, that existing before the highway was torn up. All costs incident thereto shall be borne by the Commission.

(1957, ch. 816, sec. 192; 1976, ch. 911)

Sec. 113-19. Entry into buildings; access to facilities.

A. Any employee or agent of the Commission shall have the right of entry, at all reasonable hours, upon any private premises and into any building in any sanitary district while in pursuit of his official duties, upon first presenting proper credentials from the Commission.

B. Any employee or agent of the Commission shall have the right of entry, including reasonable vehicular ingress and egress to and from any Commission pumping station, elevated water storage tank, well or other related or appurtenant equipment, while in pursuit of his official duties.

C. Any restraint or hindrance offered to the entry, access, ingress and/or egress provided herein, by any owner or tenant of any affected property, or agent of the owner or tenant, or any other person whatsoever, is a misdemeanor punishable under Section 176.12 (1957, ch. 816, sec. 193; 1965, ch. 87, sec. 193; 1976, ch. 911)

Sec. 113-20. Obstructions.

All individuals, firms or corporations having buildings, conduits, pipes, tracks, poles or other structures or obstructions in, on, over, under or through any public road, street or alley of any sanitary district which blocks or impedes the construction and establishment of the Commission's water supply or sewerage systems or other works shall, upon reasonable notice from the Commission, promptly so shift, adjust, accommodate or remove the structures or obstructions as to fully meet the exigencies occasioning the action. The costs of such changes shall be borne and paid for by the Commission. Every public service corporation, company or individual, before it or they shall begin any excavation or construction in any street, road, alley or public highway within any sanitary district, shall file with the Commission plans of such work and construction showing the location and depth in such street, road, alley or public highway of the proposed main, conduit, pole, pipe or other structure, and the construction or work may not be begun until the plans have been approved by the Commission, nor shall any change be made in the approved plans or in the work or construction as shown upon the plans except on further approval of the Commission. Whenever any main, conduit, pole, pipe or other structure is put in without the filing of plans with the Commission and the approval thereof by it, or when any change is made in the location of such main, conduit, pipe, pole or other structure as shown upon the plans approved by the Commission, or any approved change therein, the Commission, if and when such conduit, main, pipe or pole, or other structure interferes with the construction of or operation of its water or sewerage system or other works, may remove such conduit, main, pipe, pole or other structures or change the location thereof at the cost and expense of the party so putting them in, or their heirs, assigns or successors, and without any liability upon the part of the Commission for damage that might be done to same by reason of the Commission's operations in constructing or maintaining its systems or works. Any violation of the provisions of this section is a misdemeanor punishable under Section 176.13 (1957, ch. 816, sec. 194; 1965, ch. 87, sec. 194; 1976, ch. 911)

13 Cross Reference--See § 113-21 of this chapter.

Sec. 113-21. Penalties.

A. Unless otherwise provided, any act or omission designated as a misdemeanor in the chapter is punishable by a fine of not more than one hundred dollars (\$100.00) or to

confinement for not more than 30 days in the county jail, or both. Where this act or omission is of a continuing nature and persists in violation of the provisions of this chapter or of any rule or regulation promulgated under this chapter, a conviction for one (1) offense is not a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

B. Civil infractions.

(1) The St. Mary's County Metropolitan Commission may designate any violation of this chapter as a civil infraction, which shall be enforced as provided in this subsection.

(2) A Metropolitan Commission employee with the duty of enforcing this chapter may deliver a citation to a person believed to be committing a violation. A copy of the citation shall be retained by the Metropolitan Commission employee and shall bear a certification attesting to the truth of the matters set forth. The citation shall contain:

- (a) The name and address of the person charged;
- (b) The nature of the violation;
- (c) The place and time of the violation;
- (d) The amount of the fine assessed;
- (e) The manner, location, and time in which the fine may be paid; and
- (f) The person's right to elect to stand trial for the violation.

(3) Except as provided in Paragraph (4) of this subsection, a preset fine, not to exceed one hundred dollars (\$100.00), may be imposed for each violation. The Metropolitan Commission may establish a schedule of fines for each violation and may adopt procedures for collection of these fines.

(4) (a) A person may not remove water from a public system under the jurisdiction of the Metropolitan Commission without the prior authorization of the Metropolitan Commission.

(b) The Metropolitan Commission may impose a fine not exceeding one thousand dollars (\$1,000.00) for each violation of this paragraph.

(c) The Metropolitan Commission may establish a schedule of fines for each violation of this paragraph based on the amount of water removed and the number of prior violations by a person.

(5) A person who receives a citation may elect to stand trial for the offense by filing with the Metropolitan Commission a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Commission shall forward to the district court having venue a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the district court for violation shall be remitted to St. Mary's County Metropolitan Commission.

C. Administrative enforcement remedies; judicial enforcement remedies.

(1) The St. Mary's County Metropolitan Commission may utilize administrative enforcement remedies or seek judicial enforcement remedies for a violation of any rules and regulations the Commission may adopt under this chapter concerning public sewer use, including public sewer drains, the installation of building sewer connections, and the discharge of waters and wastes into the public sewer systems. The Commission shall establish procedures for implementing the enforcement remedies authorized under this subsection.

- (2) The Commission may utilize administrative enforcement remedies that may include:
- (a) A notification of a violation;
 - (b) A consent order;
 - (c) A show cause hearing;
 - (d) A compliance order;
 - (e) A cease and desist order;
 - (f) An administrative fine not to exceed one thousand dollars (\$1,000.00) per violation, per day; or
 - (g) An emergency suspension.
- (3) The Commission may seek the following judicial enforcement remedies:
- (a) Petitioning the District Court of St. Mary's County for injunctive relief;
 - (b) For a conviction of a violation, requesting civil penalties up to one thousand dollars (\$1,000.00) per violation, per day; or
 - (c) For a conviction of a violation, requesting criminal penalties of not more than one thousand dollars (\$1,000.00) per violation, or imprisonment for not more than one (1) year per violation, or both.
- (1957, ch. 815, sec. 195; 1974, ch. 566, sec. 176; 1976, ch. 911; 1985, ch. 759; 1992, ch. 18614 ; 1998, ch. 85)

14 Editor's Note--This Act also provided that it shall take effect October 1, 1992.

Sec. 113-22. Church property.

Any land owned by a church and constituting the premises occupied by a church or its parsonage and used exclusively for public worship or for other religious or customary purposes of a church or parsonage and not for investment, gain or other secular purposes shall be exempt from the equivalent of three (3) EDU's of System Improvement Charges provided for by this chapter. The Commission, in its discretion to be exercised in each individual case, may grant or withhold a further exemption. (1957, ch. 816, sec. 196; 1975, ch. 161; 1976, ch. 911)

Sec. 113-23. Rules and regulations.

The Commission may prescribe all needful rules, regulations and specifications for the administration and enforcement of this chapter. (1957, ch. 816, sec. 197; 1976, ch. 911)

Sec. 113-24. Inconsistent laws.

All Acts and parts of Acts inconsistent with the provisions of this chapter are hereby repealed to the extent of their inconsistency, provided that nothing herein contained shall be taken as restricting any control which the State Department of Health and Mental Hygiene and the State Water Resources Administration are empowered to exercise within any sanitary districts. (1957, ch. 816, sec. 197A; 1976, ch. 911)

Sec. 113-25. Condemnation of municipal facilities.

This chapter may not be construed or interpreted to authorize the Commission to acquire by condemnation any municipally owned or operated water or sewage treatment facilities.

(1957, ch. 816, sec. 2; 1976, ch. 911)

Sec. 113-26. Reimbursable work.

For any services rendered by the Commission to sanitary districts in which it neither owns nor operates a water or sewerage system at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services. For any other services rendered by the Commission to the County at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services, less one-tenth (1/10) of those costs for each sanitary district in which the Commission owns and operates a water or sewerage system. The County Commissioners shall make provision for the payment of those bills by the Treasurer of St. Mary's County upon proper verification of the costs incurred.

(1976, ch. 911)

Sec. 113-27. Construction.

A. *Liberal construction.* This chapter constitutes full and complete authority, without regard to the provisions of any law, for the doing of the acts and things authorized in this chapter, and it shall be liberally construed to effect the purposes of it. However, nothing contained in this chapter shall be taken as restricting any control which the State Department of Health and Mental Hygiene or the State Water Resources Administration is empowered to exercise over or within St. Mary's County or any sanitary district.

B. *Validation of prior proceedings.* Nothing contained in any amendment to this chapter effective June 1, 1976, shall be construed as impairing the validity of any proceedings or action taken under the provisions of this chapter prior to that date. All such proceedings taken under this chapter, including without limitation the creation and enlargement of any sanitary districts and the establishment and imposition of **System Improvement Charges** and charges (whether pursuant to this chapter alone or pursuant to Article 43 of the Annotated Code of Maryland as authorized by § 427A of Article 43) are ratified, validated and confirmed. The authorization, sale and issuance of all bonds and bond anticipation notes issued prior to that date by the St. Mary's County Metropolitan Commission are ratified and confirmed, and all such bonds and bond anticipation notes are validated as being validly authorized, sold and issued.

C. *Validation of assessments and other charges.* The determination and imposition of **System Improvement Charges** and other charges by the St. Mary's County Metropolitan Commission since its creation are expressly ratified, validated and confirmed, including without limitation those schedules of **System Improvement Charges** and charges determined, imposed and placed in effect on the following dates:

- (1) Mattapany Sanitary District: January 9, 1969; October 1, 1970; July 1, 1971.
- (2) Pine Hill Run Sanitary District No. 8: October 1, 1973; July 1, 1975.
- (3) Leonardtown Sanitary District No. 3: July 1, 1975.

(4) Indian Creek Sanitary District No. 10: July 1, 1975.

(5) Luckland Run Sanitary District No. 1: January 1, 1976.

D. *Transition.* In the event that the St. Mary's County Metropolitan Commission has decided to exercise powers granted by § 9-727 of the Health-Environmental Article of the Annotated Code of Maryland, the Commission may, nevertheless, exercise any and all powers granted by this chapter on and after June 1, 1976, without any further action on the part of the Commission, except those actions required by this chapter. In the event that the Commission decides that any modification of an existing rate, charge or assessment previously established by it is necessary or desirable or that the creation of a new rate, charge or assessment is necessary or desirable, the Commission shall promptly give notice of the proposed rates, charges and assessments in at least one (1) newspaper of general circulation in St. Mary's County. The Commission shall thereafter conduct a public hearing on the necessity or advisability of the proposed rates, charges or assessments. If the Commission acquires an existing water or sewer system, either public or private, the rates, charges or assessments to be imposed by the Commission on the persons served by the acquired system shall be treated as the establishment of a rate, charge or assessment within the meaning of this section.

(1976, ch. 911; 1984, ch. 199)

Sec. 113-28. Severability.

The provisions of this chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the provisions of this chapter shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this chapter. It is hereby declared to be the legislative intent that this chapter would have been adopted had such unconstitutional provision not been included therein.

(1976, ch. 911)

Sec. 113-29. System improvement charges.

A. (1) In this section, the following words have the meanings indicated:

(2) EDU means an equivalent dwelling unit.

(3) PUBLICATION means notice to all persons having any interest in the property.

B. (1) For every property, whether improved or unimproved, to which an EDU has been allocated for public water and/or sewer service by the St. Mary's County Office of Land Use and Growth Management, the Commission shall impose and collect, on a per EDU basis, a System Improvement Charge. (2) System Improvement Charges shall:

(A) Be assessed and payable on a monthly basis; and

(B) Be uniform and apply to every EDU equally.

(3) System Improvement Charges shall be used by the Commission to pay the costs associated with:

(A) The capital costs of central treatment facility performance upgrades, if the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital costs of the repair and replacement of existing water supply and/or sewer collection systems, if the projects are identified in the Commission's six-year capital improvement plan; and

(C) That portion of existing bonds, as of October 1, 2007, that was issued to fund the costs of repair, replacement and, where appropriate, construction of existing water supply or sewer collection systems and bonds issued to fund the costs of capital treatment facility capacity allocated to existing system users as of October 1, 2007.

(4) In determining the System Improvement Charge, the capital costs referred to in subsection B.(3) of this section shall include the principal of, interest on, and any redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the System Improvement Charge is calculated, in calculating the System Improvement Charge, the Commission may establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue in accordance with paragraph (4) of subsection H. of this section.

(B) The Commission may adjust the schedule and related System Improvement Charge provided in subparagraph (A) of this paragraph when planned future bonds are issued.

C. (1) When collected, the System Improvement Charges shall be placed, by the Commission, into an interest-bearing account containing all of the System Improvement Charges collected, notwithstanding the sanitary district from which the charge was collected.

(2) The System Improvement Charges, together with any interest accrued on the charges, shall remain in the general account, to be assessed and used by the Commission on an as-needed basis to fund the costs of any extensive system repair and replacement and central facility upgrade, as described in subsection B. of this section, in any sanitary district within which a system repair or replacement may be needed.

D. (1) When the Commission determines the appropriate System Improvement Charge for a given property, the Commission shall classify each property into one (1) of the following seven (7) classes:

- (A) Agricultural;
- (B) Small acreage;
- (C) Industrial or business;
- (D) Subdivision residential;
- (E) Multi-unit residential;
- (F) Multi-unit business; or
- (G) Institutional.

(2) The Commission may subdivide each of the classes in any manner it considers to be in the public interest.

(3) Immediately after an EDU is allocated for water or sewer service, the Commission shall initiate collection of the System Improvement Charge in accordance with the property classification.

(4) The Commission shall notify, in writing, all owners of the properties as to:

- (A) Under which class their respective properties fall;
- (B) The amount of the System Improvement Charge imposed on the property; and
- (C) A time and place for a public hearing on the classification.

(5) The notice shall:

- (A) Be mailed to the last known address of the owner;
- (B) Be served in person on any adult occupying the premises; or

- (C) In the case of vacant or unimproved property, be posted on the premises.
- (6) The classification of any property made by the Commission is final, and may only be changed:
- (A) At the public hearing held in accordance with this subsection; or
- (B) If the use of the property changes.
- (7) The System Improvement Charge shall be imposed for both water supply and sewerage facilities, whether constructed, purchased, established or otherwise acquired, and shall be assessed as a uniform per EDU charge for each class of property.
- E. (1) Whenever, through error, inadvertence or oversight or by reason of any judgment or decree, any property subject to a System Improvement Charge under this chapter has not had the System Improvement Charge imposed against it, or where it has been imposed by an erroneous description or in the wrong name, or where service on the owner has not be had, or where it has been set aside by judgment or decree, the Commission, on the discovery of the error, inadvertence or oversight, or within a reasonable time after the rendition of the judgment or decree, the Commission, may impose and collect the System Improvement Charge at the uniform rate and in the applicable property classification.
- (2) The subsection applies to all errors, omissions, or mistakes made previously by the Commission or to any judgment or decree rendered previously.
- (3) Appropriate adjustments for any payments shall be made in respect to that property.
- F. (1) When there is more than one (1) contiguous lot in the same block under one (1) ownership appurtenant to a single residence, the Commission shall impose the System Improvement Charge based on the number of EDU's assigned to each property in accordance with all applicable zoning and land use regulations.
- (2) (A) Land classified as agricultural by the Commission, when in actual use for farming or trucking purposes, may not be subject to the System Improvement Charge when the agricultural land has constructed through it or in front of it a sewer or water main, if a water or sewer connection is not made.
- (B) When a water or sewer connection is made and is for every EDU connected the land shall become subjected to the System Improvement Charge.
- (3) Public parks or playgrounds owned by a municipal corporation and any property or building owned by either a regularly organized volunteer fire department or a volunteer rescue squad are exempt from the imposition of a System Improvement Charge while used for public purposes.
- (4) If property in the sanitary district is, at the time of construction of a Commission water line or sanitary sewer line, connected to a public water system or public sewer system operated either by a municipal corporation or by a water or sewer company subject to the requirements of the State Department of Health and Mental Hygiene, or if following construction of the Commission line the property is connected to the other specified public system in accordance with the Commission, the property is exempt from the imposition and collection of a System Improvement Charge until it is served by or connected to the Commission's water supply or sanitary sewerage system, as the case may be.
- (5) When a property that has been exempted from a System Improvement Charge under this subsection is no longer exempted from the charge, the property shall be classified in its then current class and become subject to the System Improvement Charge.

G. (1) Except as otherwise provided, System Improvement Charges for water supply and sewer construction and acquisition shall be uniform for each EDU within each class of property throughout the County for any one (1) year.

(2) The Commission shall determine the amount of the System Improvement Charge per EDU within each class of property for both water and sewer service as costs and conditions require, but a System Improvement Charge for any class of property for any given year once levied by the Commission may not be increased.

H. (1) The rate of the System Improvement Charge shall be based on the Commission's six-year capital improvement plan, as revised annually.

(2) The capital improvement plan shall identify those capital projects which will be undertaken by the Commission during the most immediate six-year period, including any comprehensive improvement or replacement of existing water or wastewater systems and central treatment and processing facility expansions and upgrades.

(3) To calculate the System Improvement Charge, the total of all debt service on bonds and the total of amortized costs of all projects in the capital improvement budget for the given year, both totals excluding any costs included in the capital improvement charge under § 113-12 of this Chapter, shall be combined and divided by the total of the number of allocated EDUs and the number of EDUs expected to be allocated by the St. Mary's Office of Land Use and Growth Management for a given year.

(4) Where amortized costs are included in the calculation of the charge, the Commission shall establish the period of amortization and the interest rate.

(5) The System Improvement Charge may not be revised more than once each year, together with the annual revision to the capital improvement plan.

I. (1) Definitions.

(A) In this subsection the following words have the meaning indicated:

(B) DWELLING means a principal residence of a homeowner and includes the lot on which the house is situated.

(C) HOMEOWNER means a person who:

(I) Resides in a dwelling; and

(II) Has an ownership interest in the dwelling, including a life estate, joint tenancy, tenancy in common, tenancy by the entirety, or fee simple interest.

(D) PRINCIPAL RESIDENCE means a house that is occupied by a homeowner:

(I) For more than six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a System Improvement Charge; or

(II) For less than six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a System Improvement Charge due to illness or the need of special care, if the homeowner is otherwise qualified under the provisions of this subsection.

(2) The Commission may establish financial criteria to determine the eligibility of a homeowner whose dwelling is subject to a System Improvement Charge under this section for a deferral of the monthly payment of that charge.

(3) The Commission may defer the monthly payment of a System Improvement Charge on the dwelling of a homeowner who:

(A) Files an application with the Commission; and

(B) Meets the financial eligibility criteria that the Commission establishes.

(4) A homeowner who applies for a deferral of payment of a monthly System Improvement Charge levied on a dwelling shall submit to the Commission an application of the form that the Commission provides.

(5) A homeowner may apply for deferral on only one (1) dwelling.

(6) A homeowner who applies for deferral of payment of a System Improvement Charge shall apply at the time of payment of monthly service charges.

(7) Subject to paragraph (3) of this subsection, the Commission shall terminate the deferral of payment of a monthly System Improvement Charge if a homeowner dies, sells, or alienates the dwelling subject to the deferral.

(8) The Commission may defer the monthly payment of a System Improvement Charge by an unmarried, surviving spouse on the death of a homeowner or the unmarried, former spouse on the divorce of a homeowner if the succeeding spouse qualifies under the provisions of paragraph (3) of this subsection.

(9) When the Commission terminates the deferral of payment of a monthly System Improvement Charge under the provisions of paragraph (7) of this subsection:

(A) All deferred charges, with interest calculated on the cumulative annual payments for the deferral period, shall become due and payable immediately; and

(B) The annual levy of System Improvement Charges shall resume.

(10) (A) A deferred System Improvement Charge that is due and payable on termination of a deferral by the Commission is a lien against the dwelling in accordance with subsection L. of this section.

(B) After the Commission terminates the deferral of payment of a System Improvement Charge under paragraph (7) of this subsection, the provisions of this subsection do not impair in any way the ability of the Commission to collect a System Improvement Charge that is overdue and in default from a homeowner in accordance with subsection L. of this section.

(11) The Commission may require a homeowner who qualifies for deferral under this section to requalify at times and under circumstances that the Commission determines are reasonable and necessary.

(12) (A) The Commission may only implement the provisions of this subsection by adoption of a resolution of the Commission.

(B) The Commission shall hold a public hearing at least ten (10) days prior to any action on the proposed resolution under this paragraph.

(C) The Commission shall publish notice of the public hearing, together with a synopsis of the proposed resolution, in at least one (1) newspaper of general circulation in St. Mary's County once each week for two (2) successive weeks prior to the public hearing.

J. (1) On the allocation of an EDU, the Commission may permit a connection with a water main or sewer by a property owner whose property does not abut on the water main or sewer and who has not previously paid a System Improvement Charge for the construction of the water main or sewer.

(2) If the Commission permits a connection with a water main or sewer under this subsection, the Commission shall classify the property and determine the System Improvement Charge to be paid by the property owner.

(3) If a connection is made under this subsection, the property owner and property, for all charges, rates and benefits, shall stand in every respect in the same position as if the property abutted on a water main or sewer.

K. (1) When an applicant applies for water or sewer lines in an area in which the Commission determines that it is economically not feasible to serve unless the applicant makes a substantial contribution to the cost of construction of the water and sewer lines, including the cost of connecting them with the Commission's system, the Commission may classify the applicant's property, together with other adjacent or adjoining properties that could be readily served from the construction required by the applicant, as a "remote area."

(2) If the Commission approves an application for water and sewer lines and the applicant makes a contribution to the cost of construction in accordance with this subsection, the Commission may construct the water or sewer lines required by the applicant.

(3) If the Commission constructs the water or sewer lines, it shall impose a System Improvement Charge in accordance with this section.

L. When the Commission improves a water system or sanitary sewerage system by replacing, augmenting, ungrading, or expanding it in order to provide increased or improved water or sewer service and the necessity for the improvement arises from changes, whether individually or cumulatively, in use or zoning category of the property, those properties shall derive a benefit from the improved facility and the Commission shall impose System Improvement Charges on the benefited property for the construction as part of the water or sewer system services.

M. (1) The System Improvement Charge shall be payable at the Office of the Commission at a time that the Commission determines.

(2) If any charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) The entire unpaid System Improvement Charge shall be overdue and in default after thirty (30) days after the payment is due for all or any part of the System Improvement Charge required by the Commission, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding and subject only to prior State and County taxes, the System Improvement Charge shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The System Improvement Charge shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the system improvement charges shall be sold for System Improvement Charges at the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the System Improvement Charges.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the System Improvement Charges are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer main, the Commission shall keep a public record of all names of owners or property, locations of

the property, lot numbers when of record, and the amount of the System Improvement Charges, water service charges, or that may become liens.

(8) If any liens, System Improvement Charges or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

(9) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

N. (1) All System Improvement Charges collected by the Commission shall be set aside in a separate fund to be known and designated at the "Metropolitan District Account."

(2) In order to determine the amount which it considers necessary to be imposed under § 113-7 of this Chapter, the Commission shall deduct the amount it estimates that it will be able to collect from the System Improvement Charges and other charges previously imposed by it, but not yet paid and to be set aside for the interest and principal payments and the amount of funds then available for the purpose of paying the principal of and interest on outstanding bonds, from the whole amount necessary to be raised in any one (1) year for interest and principal payments on outstanding bonds.

(3) The balance then remaining to be raised shall be the amount to be certified to the County Commissioners of St. Mary's County for collection by taxation as provided by § 113-7 of this Chapter.

O. (1) If the State, County, or any municipal corporation, commission, board, or agency of the State or County acquires for public use property that is subject to a System Improvement Charge levied by the St. Mary's Metropolitan Commission, the System Improvement Charge shall continue to be paid in perpetuity.

(2) If any property subject to a System Improvement Charge is acquired as provided in this section without eminent domain proceedings, the System Improvement Charge shall continue to be paid in perpetuity.

(3) If any property subject to a System Improvement Charge is acquired through eminent domain proceedings, the Commission shall be named a party to the proceeding if necessary, and the final Order shall require that the System Improvement Charge be paid current through the date of conveyance and shall require the continued payment of the System Improvement Charge in perpetuity. System Improvement Charge(4)

(4) If, by oversight or mistake, the Commission is not named a party to the eminent domain proceedings, the condemning authority shall pay to the Commission the amount required to pay the System Improvement Charge current through the date of conveyance at the same time the condemning authority pays the amount awarded to the property owner in the proceedings.