

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2008, Legislative Day No. 6

Bill No. 23-08

Introduced by Mr. Dillon and Mr. Benoit

By The County Council, March 17, 2008

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Introduced and first read on March 17, 2008  
Public Hearing set for and held on April 21, 2008  
Public Hearing on AMENDED BILL set for May 5, 2008  
Bill Expires June 20, 2008

By Order: Judy C. Holmes, Administrative Officer

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A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development – Adequate Public School  
2 Facilities

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4 FOR the purpose of replacing existing standards for adequate public school facilities and  
5 the School Utilization Chart with new standards and requirements; revising certain  
6 conditions of the waiting list for approval; providing for contingent final plan approval  
7 while on the waiting list; and generally relating to adequate public school facilities.

8  
9 BY repealing and reenacting with amendments: §§ 17-5-202(b) and 17-5-503 (as  
10 amended by Bill No. 91-07)  
11 Anne Arundel County Code (2005, as amended)

12  
13 BY repealing: §§ 17-5-501 and 17-5-502 (as amended by Bill No. 91-07)  
14 Anne Arundel County Code (2005, as amended)

15  
16 BY adding: §§ 17-5-202(c), 17-5-501 and 17-5-502  
17 Anne Arundel County Code (2005, as amended)

18  
19 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*  
20 *Maryland,* That §§ 17-5-501 and 17-5-502 of the Anne Arundel County Code (2005, as  
21 amended and as amended by Bill No. 91-07) are hereby repealed.  
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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Underlining indicates amendments to bill.  
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 SECTION 2. *And be it further amended*, That Section(s) of the Anne Arundel County  
2 Code (2005, as amended and as amended by Bill No. 91-07) read as follows:

3  
4 **ARTICLE 17**  
5 **TITLE 5. ADEQUATE PUBLIC FACILITIES**

6  
7 **17-5-202. Testing; approval.**

8  
9 (b) **Date of approval.** Approval for adequacy of public facilities occurs on the date  
10 of a letter from the Office of Planning and Zoning approving a sketch plan, or for a minor  
11 subdivision, a final plan or on the date that the Office of Planning and Zoning  
12 recommends to the Department of Inspections and Permits that an application for a  
13 building or grading permit be approved. [A plan may be given contingent approval if the  
14 development passes all tests for adequate public facilities other than schools and the  
15 development is placed on the waiting list provided for in § 17-5-503.]

16  
17 (c) **Conditional final plan approval.** IF A SKETCH PLAN PASSES ALL TESTS FOR  
18 ADEQUATE PUBLIC FACILITIES OTHER THAN SCHOOLS, THE DEVELOPER MAY APPLY FOR  
19 CONDITIONAL FINAL PLAN APPROVAL, AND THE APPLICATION SHALL BE REVIEWED BY  
20 THE COUNTY IN ACCORDANCE WITH THIS TITLE WHILE THE DEVELOPMENT IS ON THE  
21 WAITING LIST DESCRIBED IN § 17-5-503. THE APPLICATION FOR CONDITIONAL FINAL PLAN  
22 APPROVAL SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS.

23  
24 (1) THE TIME REQUIREMENTS UNDER §§ 17-3-301 AND 17-303 SHALL BE APPLIED BY  
25 USING AS THE DATE OF SKETCH PLAN APPROVAL THE DATE OF THE LETTER FROM THE  
26 OFFICE OF PLANNING AND ZONING APPROVING THE SKETCH PLAN EXCEPT FOR THE  
27 ADEQUACY OF PUBLIC SCHOOL FACILITIES.

28  
29 (2) IF THE DEVELOPMENT HAS RECEIVED CONDITIONAL FINAL PLAN APPROVAL  
30 BEFORE BEING REMOVED FROM THE WAITING LIST FOR PURPOSES OF ALLOWING THE  
31 DEVELOPMENT TO PROCEED, THE TIME REQUIREMENT UNDER § 17-3-304 SHALL BE  
32 APPLIED USING THE DATE OF THE REMOVAL FROM THE WAITING LIST AS THE DATE OF  
33 FINAL PLAN APPROVAL.

34  
35 (3) RECORD PLATS, PUBLIC WORKS AGREEMENTS AND GRADING OR BUILDING  
36 PERMITS SHALL NOT BE APPROVED OR ISSUED BY THE COUNTY UNTIL THE  
37 DEVELOPMENT IS REMOVED FROM THE WAITING LIST AND THE CONDITION PLACED ON  
38 FINAL PLAN APPROVAL BECAUSE OF THE INADEQUACY OF PUBLIC SCHOOL FACILITIES  
39 HAS BEEN SATISFIED.

40  
41 **[17-5-501. Standards; report to the Board of Education.**

42  
43 A development passes the test for adequate school facilities if each public elementary,  
44 middle, and high school is designated as "open" on the school utilization chart described  
45 in § 17-5-502 for the geographical attendance areas for the development in the third  
46 school year after the school year in which the determination is being made. If approved,  
47 the Office of Planning and Zoning shall specify the number and type of dwelling units  
48 that are approved and report the number and type to the Board of Education.

49  
50 **17-5-502. School utilization chart.**

51  
52 (a) **Chart defined.** The Planning and Zoning Officer shall prepare a school utilization

1 chart for approval by ordinance of the County Council. The school utilization chart:

2  
3 (1) may not be modified by the Office or be subject to review on any appeal of a  
4 decision by the Office under this subtitle after the school utilization chart has been  
5 approved as provided in subsection (d);

6  
7 (2) shall be revised at least once a year by the County Council upon the  
8 recommendation of the Planning and Zoning Officer as soon as possible after receipt of  
9 the September 30<sup>th</sup> pupil count audited by the State Department of Education, but may be  
10 revised more often because of significant changes in enrollments or capacities;

11  
12 (3) shall be based on enrollments projected by the Board of Education and the  
13 capacities of schools as determined by the Board of Education under subsections (b) and  
14 (c); and

15  
16 (4) shall determine for each public elementary, middle, and high school whether  
17 the school has capacity for additional students during the third school year after the  
18 school year in which the most recent revision of the school utilization chart is adopted  
19 and designate for that year each public elementary, middle, and high school in the County  
20 as “open” or “closed” based on capacity for additional students.

21  
22 (b) **What projected enrollment in the chart includes.** The projected enrollment of a  
23 school used in the school utilization chart shall:

24  
25 (1) include any predicted increase in the number of students from new  
26 development in the geographical attendance area of the school;

27  
28 (2) include special placement students not enrolled in the school who reside  
29 within the geographical attendance area of the school and may be required under the  
30 policies of the Board of Education to enroll in the school;

31  
32 (3) include other students expected by the Board of Education to enroll in the  
33 school, including students assigned to the school for programmatic reasons;

34  
35 (4) not include special placement students enrolled in the school who reside  
36 outside of the geographical attendance area of the school and may be required under the  
37 policies of the Board of Education to enroll in the schools in their own geographical  
38 attendance areas.

39  
40 (c) **What capacity in the chart includes.** The capacity of a school used in the school  
41 utilization chart shall:

42  
43 (1) include the existing capacity of the school based on the program requirements  
44 of the Board of Education;

45  
46 (2) include any applicable future capacity if:

47  
48 (i) a contract for construction of the school or an addition to the school  
49 necessary to achieve the future capacity has been awarded; and

1 (ii) the Board of Education estimates that the construction will be completed  
2 in time to be used for the beginning of classes in the school year in which the future  
3 capacity is included in the school utilization chart; and  
4

5 (3) not include capacity based on temporary or relocatable structures.  
6

7 (d) **Approval.** A school utilization chart and any revisions to the chart shall not take  
8 effect until the County Council by ordinance has approved the chart or the revisions to  
9 the chart. The ordinance shall establish the effective date of the chart or revised chart, and  
10 the chart or revised chart shall continue in effect until replaced or revised.]  
11

### 12 **17-5-501. Standards; reports to the Board of Education and County Council** 13

14 (A) **Standards.** A DEVELOPMENT SATISFIES THE ADEQUATE PUBLIC FACILITIES TEST  
15 FOR SCHOOLS IF THE ELEMENTARY AND SECONDARY SCHOOLS WITHIN THE  
16 GEOGRAPHICAL ATTENDANCE AREA FOR THE DEVELOPMENT MEET THE  
17 DETERMINATION OF ADEQUACY AS DEFINED IN § 17-5-502 IN THE THIRD SCHOOL YEAR  
18 AFTER THE SCHOOL YEAR IN WHICH THE DETERMINATION IS BEING MADE.  
19

20 (B) **Reports to Board of Education and County Council.** UPON APPROVAL, THE  
21 OFFICE OF PLANNING AND ZONING SHALL SPECIFY THE NUMBER AND TYPE OF  
22 DWELLING UNITS THAT ARE APPROVED AND REPORT THE NUMBER AND TYPE TO THE  
23 BOARD OF EDUCATION. THE OFFICE OF PLANNING AND ZONING SHALL ALSO PROVIDE A  
24 SEMI-ANNUAL REPORT TO THE COUNTY COUNCIL INDICATING THE NUMBER OF UNITS  
25 APPROVED, THE ENROLLMENT AND CAPACITY NUMBERS FOR EACH COUNTY SCHOOL,  
26 AND A LIST OF SCHOOLS THAT ARE OVER CAPACITY AND THE PERCENTAGE BY WHICH  
27 THEY EXCEED THEIR RATED CAPACITY.  
28

### 29 **17-5-502. Determination of adequacy; appeal.** 30

31 (A) **Determination.** THE PLANNING AND ZONING OFFICER SHALL DETERMINE  
32 ADEQUACY OF ELEMENTARY AND SECONDARY SCHOOLS FOR THE GEOGRAPHICAL  
33 ATTENDANCE AREA FOR A DEVELOPMENT USING THE PROJECTED ENROLLMENT  
34 FIGURES PROVIDED BY THE BOARD OF EDUCATION AND THE CAPACITY AS SET FORTH IN  
35 SUBSECTIONS (B) AND (C).  
36

#### 37 (B) **Projected enrollment.** 38

39 (1) THE PROJECTED ENROLLMENT OF A SCHOOL SHALL BE AS SET FORTH IN THE  
40 MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN ADOPTED BY THE BOARD OF  
41 EDUCATION, ADJUSTED IF NECESSARY UNDER SUBSECTION (B)(2) FOR THE ESTIMATED  
42 ENROLLMENT FROM ANY DWELLING UNITS PREVIOUSLY APPROVED UNDER THIS  
43 SUBTITLE BY USING THE SAME EDUCATIONAL FACILITIES MASTER PLAN.  
44

45 (2) THE PROJECTED ENROLLMENT SHALL BE ADJUSTED TO REFLECT ADDITIONAL  
46 STUDENTS TO BE ADDED BY THE NEW SUBDIVISION BY MULTIPLYING THE NUMBER OF  
47 APPROVED DWELLING UNITS BY THE FOLLOWING STUDENT YIELD PER DWELLING UNIT  
48 FACTORS PROVIDED IN THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN:  
49

50 (I) ELEMENTARY (GRADES K-5) = 0.181;

51 (II) MIDDLE (GRADES 6-8) = 0.09; AND

52 (III) SENIOR (GRADES 9-12) = 0.111  
53  
54

1 (C) **Capacity.** THE PLANNING AND ZONING OFFICER SHALL DETERMINE ADEQUACY  
2 BASED ON THE FOLLOWING CRITERIA FOR CAPACITY.

3  
4 (1) ELEMENTARY SCHOOLS SHALL BE CONSIDERED ADEQUATE IF PROJECTED  
5 ENROLLMENT IS LESS THAN ~~405%~~ 100% OF THE STATE-RATED CAPACITY.

6  
7 (2) MIDDLE AND HIGH SCHOOLS SHALL BE CONSIDERED ADEQUATE IF  
8 PROJECTED ENROLLMENT IS LESS THAN ~~440%~~ 100% OF THE STATE-RATED CAPACITY.

9  
10 (3) TEMPORARY OR RELOCATABLE STRUCTURES SHALL NOT BE CONSIDERED  
11 FOR PURPOSES OF DETERMINING CAPACITY.

12  
13 (D) **Procedures on appeal.** IN ANY APPEAL OF THE PLANNING AND ZONING  
14 OFFICER'S DETERMINATION OF THE ADEQUACY OF SCHOOLS, THE PROJECTED  
15 ENROLLMENT AND STATE-RATED CAPACITY OF A SCHOOL AS DESCRIBED IN THE MOST  
16 RECENT EDUCATIONAL FACILITIES MASTER PLAN ADOPTED BY THE BOARD OF  
17 EDUCATION SHALL CONCLUSIVELY BE PRESUMED TO BE CORRECT. A COPY OF THE  
18 MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN ADOPTED BY THE BOARD OF  
19 EDUCATION SHALL BE RECEIVED INTO EVIDENCE IN THE APPEAL IF CERTIFIED AS A  
20 TRUE COPY BY THE APPROPRIATE CUSTODIAN IN ACCORDANCE WITH THE COURTS AND  
21 JUDICIAL PROCEEDINGS ARTICLE, § 10-204, OF THE STATE CODE.

22  
23 **17-5-503. Waiting list.**

24  
25 (a) **Generally.** The Office of Planning and Zoning shall establish a waiting list for  
26 approval of the adequacy of public facilities for schools, with the date of entry onto the  
27 WAITING list being the date of the determination by the Office of the adequacy of public  
28 facilities for schools.

29  
30 [(b) **No actions to be taken while on list.** No further review or approval of a  
31 development shall take place while the development is on the waiting list, and no plans,  
32 applications, or other documents shall be submitted for review or approval.

33  
34 (c) (B) **Length of time on list.** An applicant is not required to remain on the waiting  
35 list for more than [six] THREE years and, at the end of [six] THREE years, the applicant is  
36 entitled to approval of the development without regard to the adequacy of public facilities  
37 for schools.

38  
39 (C) **Review of waiting list.** THE OFFICE OF PLANNING AND ZONING SHALL  
40 COMPLETE A REVIEW OF THE WAITING LIST AS SOON AS POSSIBLE AFTER RECEIPT OF  
41 THE ANNUAL SEPTEMBER 30<sup>TH</sup> PUPIL COUNT AUDITED BY THE STATE DEPARTMENT OF  
42 EDUCATION, BUT MORE OFTEN IF THE BOARD OF EDUCATION ADVISES OF SIGNIFICANT  
43 CHANGES IN ENROLLMENTS OR CAPACITIES. A COPY OF THE WAITING LIST SHALL BE  
44 PROVIDED TO THE COUNTY COUNCIL AND POSTED ON THE OFFICE OF PLANNING AND  
45 ZONING WEBSITE.

46  
47 SECTION 3. *And be it further enacted,* That this Ordinance shall take effect 45 days  
48 from the date it becomes law.