

1 **..Title**
2 **Adequate Public Facilities** – For the purpose of adding review criteria and certification for adequate
3 school facilities to Title 22 of the Code of the City of Annapolis; and matters generally relating to the
4 adequacy of school facilities.

5 **..Body**

6
7 **CITY COUNCIL OF THE**
8 **City of Annapolis**

9
10 **Ordinance 36-15**

11
12 **Introduced by: Alderman Littmann and Alderman Arnett**

13
14 **Referred to**
15 **Planning Commission**
16 **Rules and City Government**

17
18 **AN ORDINANCE** concerning

19
20 **Adequate Public Facilities**

21
22 **FOR** the purpose of adding review criteria and certification for adequate school facilities to Title
23 22 of the Code of the City of Annapolis; and matters generally relating to the adequacy of
24 school facilities.

25
26 **BY** repealing and reenacting, with amendments, the following portions of the Code of the City of
27 Annapolis, 2014 Edition:
28 Section 22.04.010
29 Section 22.10.020
30 Section 22.28.010

31
32 **BY** repealing and reenacting, without amendments, the following portion of the Code of the City
33 of Annapolis, 2014 Edition:
34 Section 22.10.010

35
36 **BY:** adding “Chapter 22.25 - Review Criteria and Certification for Adequate School Facilities” to
37 Title 22 of the Code of the City of Annapolis, 2014 Edition.

38
39 **WHEREAS,** it shall be ensured that a proposed development project will be served by a public
40 school that is not over capacity.

41
42

1 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
2 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

3
4 **TITLE 22 – ADEQUATE PUBLIC FACILITIES**
5 **Chapter 22.04 - TERMS AND DEFINITIONS**

6
7 **22.04.010 - Terms and definitions.**
8

9 As used in this title, the following terms shall have the meanings indicated:

10
11 "Adequacy" means that adequate facilities exist or are expected to exist to serve existing
12 development and the proposed project.

13
14 "AGE-RESTRICTED RESIDENTIAL PROJECT" MEANS ANY OTHER HOUSING THAT IS
15 EITHER:

16
17 A. PROVIDED UNDER ANY STATE OR FEDERAL PROGRAM THAT THE
18 SECRETARY OF HOUSING AND URBAN DEVELOPMENT DETERMINES IS
19 SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS (AS
20 DEFINED IN THE STATE OR FEDERAL PROGRAM); OR

21
22 B. INTENDED FOR, AND SOLELY OCCUPIED BY, PERSONS 62 YEARS OF AGE
23 OR OLDER; OR

24
25 C. INTENDED AND OPERATED FOR OCCUPANCY BY PERSONS 55 YEARS OF
26 AGE OR OLDER, AND—

27
28 1. AT LEAST 80 PERCENT OF THE OCCUPIED UNITS ARE OCCUPIED
29 BY AT LEAST ONE PERSON WHO IS 55 YEARS OF AGE OR OLDER; AND

30
31 2. THE HOUSING FACILITY OR COMMUNITY PUBLISHES AND
32 ADHERES TO POLICIES AND PROCEDURES THAT DEMONSTRATE THE INTENT
33 REQUIRED UNDER THIS SUBPARAGRAPH; AND

34
35 3. THE HOUSING FACILITY OR COMMUNITY COMPLIES WITH RULES
36 ISSUED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT FOR
37 VERIFICATION OF OCCUPANCY, WHICH SHALL—

38
39 (I) PROVIDE FOR VERIFICATION BY RELIABLE SURVEYS AND
40 AFFIDAVITS; AND

41
42 (II) INCLUDE EXAMPLES OF THE TYPES OF POLICIES AND

1 PROCEDURES RELEVANT TO A DETERMINATION OF COMPLIANCE WITH
2 THE REQUIREMENT OF SUBPARAGRAPH 2. SUCH SURVEYS AND
3 AFFIDAVITS SHALL BE ADMISSIBLE IN ADMINISTRATIVE AND JUDICIAL
4 PROCEEDINGS FOR THE PURPOSES OF SUCH VERIFICATION.
5

6 D. THE AGE RESTRICTION SHALL BE NOTED ON THE PLAT AND RECORDED
7 IN THE LAND RECORDS FOR ANNE ARUNDEL COUNTY.
8

9 "Applicant" means a person, partnership, firm, corporation, company, any other entity or
10 combination of entities, or an agent thereof, with an interest in the proposed development and that
11 undertakes or participates in the activities covered by these regulations, and that applies for a
12 Certificate of Adequate Public Facilities.
13

14 "Development" means the construction or enlargement of residential, commercial, industrial,
15 institutional or transportation uses or principal structures.
16

17 "Facilities" means:

18
19 1. Public facilities provided, managed or within the exclusive control of the City of
20 Annapolis and includes:

- 21
22 a. Fire, rescue, emergency medical and fire inspection services;
23 b. Police protection;
24 c. Public maintenance services;
25 d. Water and sewer services;
26 e. Recreational facilities;
27 f. Non-auto transportation;
28 g. Storm water management;
29 h. City roads.
30

31 2. PUBLIC SCHOOLS MANAGED BY THE ANNE ARUNDEL COUNTY BOARD OF
32 EDUCATION.
33

34 "Inadequacy" means that adequate facilities are not currently available to serve existing development
35 and the proposed project.
36

37 "Major site design plan" is as defined in Section 21.22.020(B)(1) for a project covered by this title.
38

39 "Proposed project" means all new development or redevelopment of any non-residential building or
40 any mixed-use development of non-residential and residential uses, proposed by an applicant, where
41 the proposed development is greater than ten thousand square feet in area or a residential subdivision
42 of more than eleven lots regardless of the square footage of the development.

1
2 "Redevelopment" means the expansion, significant rehabilitation, alteration, reconstruction, or
3 substantial improvement of any existing principal structure on a site, which has previously been
4 developed. The construction of new structures on an undeveloped site is not redevelopment for
5 purposes of this title.

6
7 **Chapter 22.10 - GENERAL REVIEW CRITERIA**

8
9 **22.10.010 - Development or redevelopment to be included.**

10
11 In determining the adequacy or inadequacy of public facilities, departments responsible for
12 the applicable facilities shall take into consideration the following:

13
14 A. Residential, commercial, and mixed use development and approved development
15 existing within the City, as applicable.

16
17 B. Proposed projects, as applicable, for which a Certificate of Adequate Public Facilities
18 has been issued under this title.

19
20 C. The proposed project for which an application for a Certificate of Adequate Public
21 Facilities has been applied.

22
23 D. The Capital Improvement Program, including projected facilities, the Comprehensive
24 Plan as defined in Title 21, and any other land use conditions that the Director of Planning and
25 Zoning may reasonably prescribe to be considered by the departments.

26
27 **22.10.020 - Process.**

28
29 A. General.

30
31 1. Each director or department responsible for the applicable facilities shall, for each
32 facility, collect and maintain current information on the facility, existing levels of service, and
33 projected levels of service.

34
35 2. The Fire Chief and the Police Chief, respectively, shall each annually assess the
36 response times for adequate fire, rescue, and emergency services, and annual assessment of officer
37 ratio and response times for adequate police protection.

38
39 a. The Fire Chief and the Police Chief, respectively, shall each assess and
40 otherwise measure annually the facilities for which they are responsible, as described in this
41 title, and shall each prepare a separate report of such assessments and measurements by

1 September 1st of each year for use in conjunction with this title which shall be forwarded to
2 the Director of Planning and Zoning.
3

4 b. If the annual summary shows that the facilities meet the standards described in
5 this title, the facilities are adequate and all projects shall be deemed to meet the adequacy
6 standards. If the summary shows that one or more of the facilities do not meet the standards
7 described in this title, the facilities are inadequate and applicants shall proceed in accordance
8 with the requirements of Chapter 22.28.
9

10 3. Each director or department responsible for the applicable facilities, including the Fire
11 Chief and Police Chief, may employ persons or contract for services as may be necessary to
12 implement such information collection and assessments as described in Subsections (2)(a) and (b).
13

14 B. Procedures.

15 1. Evaluation.
16

17 a. Upon referral of any and all materials related to an application for a
18 Certificate of Adequate Public Facilities to the each director or department responsible for
19 the applicable facilities pursuant to Section 22.08.030, the director of the department shall
20 assess and otherwise measure the projected levels of service of the facility or facilities as
21 impacted by the proposed project in accordance with the standards required to be
22 promulgated by this title. In the director's sole discretion, the director may request that an
23 applicant provide supplemental information regarding the development or redevelopment of
24 the proposed project and estimates of the facility services that the proposed project will
25 demand.
26

27 b. When a director's review and assessment of adequacy that is required by this
28 title is contingent upon the findings and conclusions of another department, the director of
29 the reviewing department shall promptly transmit copies of the materials to such other
30 departments for written comments that include recommending a finding of adequacy or
31 inadequacy of facilities with regard to the proposed project. Notwithstanding any
32 recommendation, only the director or department responsible for the applicable facilities can
33 issue a finding or conclusion as to the adequacy or inadequacy of facilities.
34

35 2. Findings and Conclusion.
36

37 a. Following the assessment and measurement of the projected levels of service
38 of the facility or facilities as impacted by the proposed project and, if applicable, based upon
39 the comment of other departments, the director or department responsible for the applicable
40 facilities shall determine the adequacy of facilities to serve the proposed project under
41 review.
42

1
2 b. If a director determines that the facilities under review are or will be adequate
3 for a proposed project, such findings and conclusions shall be forwarded to the Director of
4 Planning and Zoning.

5
6 c. If a director determines that one or more facilities is or will not be adequate
7 for a proposed project, the applicant may proceed in accordance with the requirements of
8 Chapter 22.28. FOR SCHOOL CAPACITY, SEE ALSO, SECTION 22.25.050.

9
10 3. Transmittal to Planning and Zoning Director. Upon determining that (a) the
11 facilities are adequate for a proposed project, (b) the facilities will be adequate for a proposed
12 project because the project is in compliance with the provisions of Chapter 22.28, or (c) the
13 facilities are inadequate for a project, the director of the department shall forward a written copy
14 of such findings and explanation to the Planning and Zoning Director.

15
16 **CHAPTER 22.25 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
17 **SCHOOL FACILITIES**

18 **22.25.010 - RESPONSIBILITY.**

19
20 THE DIRECTOR OF PLANNING AND ZONING SHALL BE RESPONSIBLE FOR REVIEW
21 AND ASSESSMENT OF A PROPOSED PROJECT WITH REGARD TO THE ADEQUACY OF
22 SCHOOL FACILITIES.

23
24 **22.25.020 - GOAL.**

25
26 THE GOAL OF REVIEWING AND ASSESSING ADEQUATE SCHOOL FACILITIES IS TO
27 ENSURE THAT THE PROPOSED PROJECT IS SERVED BY PUBLIC SCHOOLS THAT DO
28 NOT EXCEED CAPACITY AS DESCRIBED IN SECTION 22.25.040.

29
30 **22.25.030 - EXEMPTIONS.**

31
32 THE FOLLOWING ARE EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER: NON-
33 RESIDENTIAL PROJECTS; RESIDENTIAL SUBDIVISIONS IF NO NEW DWELLING UNIT
34 POTENTIAL IS CREATED; INSTITUTIONS FOR THE CARE OF THE AGED; AND AGE-
35 RESTRICTED RESIDENTIAL PROJECTS.

36
37 **22.25.040 - STANDARDS.**

38
39 A. TESTING FOR ADEQUATE SCHOOL CAPACITIES, IN ACCORDANCE WITH
40 PARAGRAPH D OF THIS SECTION, SHALL OCCUR ON JULY 1 OF EACH YEAR.

41
42 B. TESTING FOR ADEQUATE SCHOOL CAPACITIES IS PREPARED BY THE

1 DIRECTOR OF PLANNING AND ZONING AND IS BASED ON THE SCHOOL UTILIZATION
2 CHART, AS DESCRIBED IN PARAGRAPH D BELOW.
3

4 C. NOTWITHSTANDING THE DEFINITION OF "PROPOSED PROJECT" IN
5 SECTION 22.04.010, RESIDENTIAL DEVELOPMENTS EXCEEDING FIVE DWELLING
6 UNITS SHALL NOT BE APPROVED AT LOCATIONS WHERE THE ENROLLMENT AT THE
7 ELEMENTARY, MIDDLE OR HIGH SCHOOL THAT SERVES THE SITE IS GREATER THAN
8 100% OF THE STATE RATED CAPACITY OR IS PROJECTED BY ANNE ARUNDEL
9 COUNTY PUBLIC SCHOOLS TO BE GREATER THAN 100% WITHIN THREE YEARS.
10

11 D. THE CAPACITY OF A SCHOOL USED IN THE SCHOOL UTILIZATION
12 CHART SHALL INCLUDE:
13

14 1. THE EXISTING CAPACITY OF THE SCHOOL BASED ON THE
15 PROGRAM REQUIREMENTS OF THE ANNE ARUNDEL COUNTY BOARD OF
16 EDUCATION; AND
17

18 2. ENROLLMENT AS OF SEPTEMBER 30; AND
19

20 3. PROJECTED ENROLLMENT FOR THE SUBSEQUENT THREE YEARS
21 AS PROVIDED BY ANNE ARUNDEL COUNTY SCHOOLS; AND
22

23 4. ANY APPLICABLE FUTURE CAPACITY IF:
24

25 (a.) A CONTRACT FOR CONSTRUCTION OF THE SCHOOL OR AN
26 ADDITION TO THE SCHOOL NECESSARY TO ACHIEVE THE FUTURE
27 CAPACITY HAS BEEN AWARDED; AND
28

29 (b.) THE BOARD OF EDUCATION ESTIMATES THAT THE
30 CONSTRUCTION WILL BE COMPLETED IN TIME TO BE USED FOR THE
31 BEGINNING OF CLASSES IN THE SCHOOL YEAR IN WHICH THE FUTURE
32 CAPACITY IS INCLUDED IN THE SCHOOL UTILIZATION CHART; AND
33

34 (c.) DOES NOT INCLUDE CAPACITY BASED ON TEMPORARY OR
35 RELOCATABLE STRUCTURES.
36

37 **22.25.050 CONDITIONAL REVIEW APPROVAL**
38

39 A. UPON REQUEST BY THE APPLICANT, THE DEPARTMENT OF PLANNING
40 AND ZONING MAY PROCEED WITH A CONDITIONAL REVIEW APPROVAL IN
41 CONSULTATION WITH THE APPLICABLE DEPARTMENTS. THE DEPARTMENT OF
42 PLANNING AND ZONING SHALL ESTABLISH A WAITING LIST FOR APPROVAL OF THE

1 ADEQUACY OF PUBLIC FACILITIES FOR SCHOOLS, WITH THE DATE OF ENTRY ONTO
2 THE LIST BEING THE DATE THE APPLICATION IS DEEMED COMPLETE.

3
4 B. AN APPLICANT IS NOT REQUIRED TO REMAIN ON THE WAITING LIST
5 FOR MORE THAN SIX YEARS AND, AT THE END OF SIX YEARS, THE APPLICANT IS
6 ENTITLED TO APPROVAL OF THE DEVELOPMENT WITHOUT REGARD TO THE
7 ADEQUACY OF PUBLIC FACILITIES FOR SCHOOLS.

8
9 C. A CONDITIONAL REVIEW APPROVAL MAY BE GRANTED BY THE BOARD
10 OF APPEALS, PLANNING COMMISSION, OR PLANNING DIRECTOR, AS APPLICABLE.

11
12 **Chapter 22.28 – MITIGATION**

13
14 **22.28.010 - Opportunity to mitigate.**

15
16 A. An applicant whose proposed project is subject to denial or delay under this title
17 shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to
18 donate necessary facilities in order to allow for approval of the applicant's application under this
19 title for a Certificate for Adequate Public Facilities.

20
21 B. The forms and levels of mitigation required of an applicant shall be roughly
22 proportionate to the projected impact of the proposed project upon the facility or facilities and
23 shall be determined by the Director of Planning and Zoning in consultation with the other
24 departments responsible for the applicable facilities as outlined in Section 22.28.010.

25
26 C. FOR A SCHOOL FACILITY, MITIGATION CONSISTS OF THE
27 CONSTRUCTION OR FUNDING OF IMPROVEMENTS BY A DEVELOPER THAT INCREASE
28 CAPACITY OF THE SCHOOL FACILITY WHICH IS BELOW THE MINIMUM STANDARD IN
29 THE IMPACT AREA SO THAT THE CAPACITY OF THE FACILITY IN THE SCHEDULED
30 COMPLETION YEAR IS EQUAL TO, OR GREATER THAN, IT WOULD HAVE BEEN HAD
31 THE DEVELOPMENT NOT BEEN CONSTRUCTED. A MITIGATION PLAN WITH
32 PHYSICAL IMPROVEMENTS MAY BE SECURED BY BOND, LETTER OF CREDIT OR
33 OTHER SECURITY ACCEPTABLE TO THE CITY AND SHALL BE PROVIDED UNDER AN
34 AGREEMENT WITH THE BOARD OF EDUCATION TO CONSTRUCT SCHOOL FACILITIES,
35 INCLUDING CONTRACT SCHOOLS. THE DEVELOPER SHALL SUBMIT A COST
36 ESTIMATE TO ESTABLISH THE VALUE OF CONSTRUCTION OFFERED IN MITIGATION
37 IN CONFORMANCE WITH CITY SPECIFICATIONS. CAPITAL IMPROVEMENTS TO ANY
38 PORTION OF THE DEVELOPER'S PROPERTY OR PROJECT, PURSUANT TO A SCHOOL
39 CAPACITY MITIGATION AGREEMENT, SHALL BE MADE AVAILABLE AND SHALL
40 PROVIDE SCHOOL CAPACITY TO ALLOW APPROVAL OF PRELIMINARY SUBDIVISION
41 PLAN APPLICATIONS THAT ARE FILED WITHIN SIX YEARS OF THE DATE OF THE
42 SCHOOL CAPACITY MITIGATION AGREEMENT.

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SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.