



Legislation Text

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**Title 22 - Adequate Public Facilities - City Code Update** - For the purpose of updating Title 22 of the City Code regarding Adequate Public Facility certification of development and redevelopment; and generally related to Title 22.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 5-23**

**Introduced by: Mayor Buckley  
Co-sponsored by: Aids. Arnett, Pindell Charles, Finlayson**

**Referred to**

Planning Commission  
Housing and Human Welfare Committee  
Rules and City Government Committee  
Environmental Matters Committee

**AN ORDINANCE** concerning

**Title 22 - Adequate Public Facilities - City Code Update**

**FOR** the purpose of updating Title 22 of the City Code regarding Adequate Public Facility certification of development and redevelopment; and generally related to Title 22.

**BY** repealing and reenacting with amendments the following portions of the Code of the City of Annapolis, 2023 Edition  
**Title 22**

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

**~~Chapter 22.02 PURPOSE~~**

**~~Section:~~**

**~~22.02.010 Purpose:~~**

- ~~A. The purposes of testing for and certification of Adequate Public Facilities are to:~~
- ~~1. Assure that development and redevelopment occurs in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.~~
  - ~~2. Assure that proposed development protects the public health and safety, promotes the general welfare of the community, and conserves the environment.~~

3. ~~Assure that proposed development fits harmoniously into the fabric of the community.~~
4. ~~Encourage new development to occur in areas of the City where public facilities are being provided.~~

B. ~~Adequacy standards should be achievable within a six year timeframe and the annual Capital Improvement Program should be based on a community facilities plan that insures that existing deficiencies are corrected within that timeframe.~~

## Chapter 22.04 TERMS AND DEFINITIONS

### 22.04.010 Terms and definitions.

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

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

"Age-restricted residential project" means any other housing that is either:

1. Provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
2. Intended for, and solely occupied by, persons sixty-two years of age or older; or
3. Intended and operated for occupancy by persons fifty-five years of age or older, and:
  - a. At least eighty percent of the occupied units are occupied by at least one person who is fifty-five years of age or older; and
  - b. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
  - c. The housing facility or community complies with rules issued by the Secretary of Housing and Urban Development for verification of occupancy, which shall:
    - (i) Provide for verification by reliable surveys and affidavits; and
    - (ii) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subparagraph 3.b. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
4. The age restriction shall be noted on the plat and recorded in the land records for Anne Arundel County.

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

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

"Facilities" means:

1. Public facilities provided, managed or within the exclusive control of the City of Annapolis and includes:
  - a. Fire, rescue, emergency medical and fire inspection services;
  - b. Police protection;
  - c. Public maintenance services;
  - d. Water and sewer services;
  - e. Recreational facilities;
  - f. Non-auto transportation;
  - g. Storm water management;
  - h. City roads.
2. Public schools managed by the Anne Arundel County Board of Education.

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

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

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

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

## **Chapter 22.06 APPLICABILITY**

### **22.06.010 Applicability.**

A Certificate of Adequate Public Facilities shall be required to be issued before any approval of a Major Site Design Plan application under Section 21.22.060 of the Zoning Code, and any approval of a Planned Developments under Chapter 21.24 of the Zoning Code, for all proposed projects subject to this title.

### **22.06.020 Certificate of adequate public facilities.**

Before a Certificate of Adequate Public Facilities may be issued as required by Section 22.06.010, the Department of Planning and Zoning shall receive the written findings and conclusion from each director or department responsible for the applicable facilities as to the adequacy or inadequacy of the facilities as specified in this title. No Certificate of Adequate Public Facilities shall be issued until such time as the written findings and conclusion from each director or department responsible for the applicable facilities are delivered and which certify the adequacy of the applicable facilities.

## **Chapter 22.08 ADMINISTRATION**

### **22.08.010 Administering Department.**

The Department of Planning and Zoning shall administer the application process for a Certificate of Adequate Public Facilities, with support from each director or department responsible for the applicable facilities. Each Department shall promulgate and publish in documentary form and on the City website the standards the Department will use for certification purposes.

### **22.08.020 Submittal materials.**

An application for a Certificate of Adequate Public Facilities shall be made by an applicant contemporaneously with any application for site design review and approval of a Major Site Design Plan or Planned Development, under Title 21, for a proposed project. The applicant shall provide any materials that the Department of Planning and Zoning may reasonably require to be submitted. Any other materials related to an application for a Certificate of Adequate Public Facilities shall be submitted to the Department of Planning and Zoning.

### **22.08.030 Referral.**

The Department of Planning and Zoning shall promptly refer any and all materials related to an application for a Certificate of Adequate Public Facilities to the each director or department responsible for the applicable facilities for written findings, conclusion, and certification that (a) the facilities are adequate for a proposed project, (b) the facilities will be adequate for a proposed project because the project is in compliance with the provisions of Chapter 22.28, or (c) the facilities are inadequate for a project.

### **22.08.040 Review for and issuance of Certificate of Adequate Public Facilities.**

- A. After review of the application and the submitted materials in conjunction with all pertinent data and measurements on the facility or facilities under review, the director of each department responsible for the applicable facilities shall certify the adequacy or inadequacy of the public facilities that are to serve the proposed project, based upon the standards for each public facility promulgated by that director under Section 21.08.010. A written copy of each department director's findings and conclusion shall be forwarded to the Planning and Zoning Director.
- B. Subject to Section 22.26.010, if all applicable departments have certified that the proposed project can be served by adequate public facilities, the Director of Planning and Zoning shall issue a Certificate of Adequate Public Facilities to the applicant. If the Department of Planning and Zoning finds that one or more of the departments have found inadequacy in the public facilities that would serve the proposed project, no Certificate shall be issued and the Director of Planning and Zoning shall notify the applicant in order that the applicant may proceed in accordance with the requirements of Chapter 22.28.

## **Chapter 22.10 GENERAL REVIEW CRITERIA**

### **22.10.010 Development or redevelopment to be included.**

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

- A. Residential, commercial, and mixed use development and approved development existing within the City, as applicable.
- B. Proposed projects, as applicable, for which a Certificate of Adequate Public Facilities has been issued under this title.
- C. The proposed project for which an application for a Certificate of Adequate Public Facilities has been applied.
- D. The Capital Improvement Program, including projected facilities, the Comprehensive Plan as defined in Title 21, and any other land use conditions that the Director of Planning and Zoning may reasonably prescribe to be considered by the departments.

**22.10.020 Process.**

A. General.

- 1. Each director or department responsible for the applicable facilities shall, for each facility, collect and maintain current information on the facility, existing levels of service, and projected levels of service.
- 2. The Fire Chief and the Police Chief, respectively, shall each annually assess the response times for adequate fire, rescue, and emergency services, and annual assessment of officer ratio and response times for adequate police protection.
  - a. The Fire Chief and the Police Chief, respectively, shall each assess and otherwise measure annually the facilities for which they are responsible, as described in this title, and shall each prepare a separate report of such assessments and measurements by September 1st of each year for use in conjunction with this title which shall be forwarded to the Director of Planning and Zoning.
  - b. If the annual summary shows that the facilities meet the standards described in this title, the facilities are adequate and all projects shall be deemed to meet the adequacy standards. If the summary shows that one or more of the facilities do not meet the standards described in this title, the facilities are inadequate and applicants shall proceed in accordance with the requirements of Chapter 22.28.
- 3. Each director or department responsible for the applicable facilities, including the Fire Chief and Police Chief, may employ persons or contract for services as may be necessary to implement such information collection and assessments as described in Subsections (2)(a) and (b).

B. Procedures.

- 1. Evaluation.
  - a. Upon referral of any and all materials related to an application for a Certificate of Adequate Public Facilities to the each director or department responsible for the applicable facilities pursuant to Section 22.08.030, the director of the department shall assess and otherwise measure the projected levels of service of the facility or facilities as impacted by the proposed project in accordance with the standards required to be promulgated by this title. In the director's sole discretion, the director may request that an applicant provide supplemental information regarding the development or redevelopment of the proposed project and estimates of the facility services that the proposed project will demand.
  - b. When a director's review and assessment of adequacy that is required by this title is contingent upon the findings and conclusions of another department, the director of the reviewing department shall promptly transmit copies of the materials to such other departments for written comments that include recommending a finding of adequacy or inadequacy of facilities with regard to the proposed project. Notwithstanding any recommendation, only the director or department responsible for the applicable facilities can issue a finding or conclusion as to the adequacy or inadequacy of facilities.
- 2. Findings and Conclusion.
  - a. Following the assessment and measurement of the projected levels of service of the facility or facilities as impacted by the proposed project and, if applicable, based upon the comment of other departments, the director or department responsible for the applicable facilities shall determine the adequacy of facilities to serve the proposed project under review.

- b. If a director determines that the facilities under review are or will be adequate for a proposed project, such findings and conclusions shall be forwarded to the Director of Planning and Zoning.
  - c. If a director determines that one or more facilities is or will not be adequate for a proposed project, the applicant may proceed in accordance with the requirements of Chapter 22.28. For school capacity, see also, Section 22.25.050.
3. Transmittal to Planning and Zoning Director. Upon determining that (a) the facilities are adequate for a proposed project, (b) the facilities will be adequate for a proposed project because the project is in compliance with the provisions of Chapter 22.28, or (c) the facilities are inadequate for a project, the director of the department shall forward a written copy of such findings and explanation to the Planning and Zoning Director.

**Chapter 22.12 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE FIRE, RESCUE, EMERGENCY MEDICAL AND FIRE INSPECTION 22.12.010 Responsibility.**

The Fire Chief shall be responsible for review and assessment of a proposed project with regard to adequacy of fire, rescue, emergency medical, and fire inspection facilities.

**22.12.020 Goal.**

The goal of adequate fire, rescue, emergency medical, and fire inspection facilities is to ensure that emergency response times within the City are maintained at or above an established minimum; that the deployment resources necessary to respond to both fire and non-fire emergencies are maintained at or above an established minimum; that adequate water supply and hydrants are available for effective firefighting and fire suppression; and that an adequate fire inspection staff is maintained to perform fire and life safety inspection.

**22.12.030 Exemption.**

A proposed project that will include a sprinkler system or systems in accordance with Section 17.12.010 shall be deemed to have adequate facilities under this Chapter.

**22.12.040 Standards.**

- A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:
  - 1. Response Times.
    - a. Fire incident response time for the arrival of an initial company shall be within a four-minute response time and/or initial full alarm assignment within an eight-minute response time to ninety percent of incidents as measured annually in accordance with Section 22.10.020(A)(2).
    - b. Emergency Management Service (EMS) incident response time for the arrival of a first responder with Automated External Defibrillator (AED) shall be within a four-minute response time to ninety percent of incidents as measured annually in accordance with Section 22.10.020(A)(2).
    - c. EMS incident response time for the arrival of an Advanced Life Support (ALS) company shall be within an eight-minute response time to ninety percent of incidents as measured annually in accordance with Section 22.10.020 (A)(2).
  - 2. Fire Flow and Flow Duration. Fire flow and flow duration shall be maintained at levels of service throughout the City in compliance with the requirements of Section 17.20.020 and the State of Maryland Fire Prevention Code as adopted by the City.

**Chapter 22.14 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE POLICE PROTECTION**

**22.14.010 Responsibility.**

The Police Chief shall be responsible for review and assessment of a proposed project's with regard to the adequacy of police protection.

**22.14.020 Goal.**

The goal of adequate police facilities is to ensure that law and order is maintained, the laws of the City of Annapolis are enforced, and to create and sustain an environment of personal safety and security of property among citizens, businesspersons, and visitors.

**22.14.030 Exemptions.**

There are no exemptions allowed for any projects.

**22.14.040 Standards.**

- A. For purposes of Chapter 22.14 only, "Police Officer" means an individual who is: (1) certified by the Maryland Police and Training Standards Commission; and (2) employed by the Annapolis Police Department.
- B. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:
  - 1. Officer Ratio. The ratio of police officers authorized in the current City budget to City residents shall not be less than 3.2 officers per every one thousand City residents.
  - 2. Average Response Time. The average response time within the City shall not be greater than two minutes and thirty seconds for a priority one emergency response and for the initial annual period. Any subsequent average response time shall not increase more than ten percent from the annual period immediately prior.

**Chapter 22.16 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE PUBLIC MAINTENANCE SERVICES**

**22.16.010 Responsibility.**

The Director of Public Works shall be responsible for review and assessment of a proposed project with regard to the adequacy of public maintenance facilities.

**22.16.020 Goal.**

The goal of adequate public maintenance facilities is to insure that safe and efficient service is provided in the areas of trash pick-up, snow removal, and road maintenance.

**22.16.030 Exemptions.**

There are no exemptions allowed for any projects.

**22.16.040 Standards.**

The standards for public maintenance services, required to be promulgated pursuant to Section 22.08.010, shall be determined by the Director of Public Works.

**Chapter 22.18 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE WATER AND SEWER FACILITIES**

**22.18.010 Responsibility.**

The Director of Public Works shall be responsible for review and assessment of a proposed project with regard to the adequacy of adequate water and sewer facilities.

**22.18.020 Goal.**

The goal of adequate water and sewer facilities is to insure that there is sufficient capacity in the water storage system, the water distribution system, the sewer collection system, and the sewage pumping stations owned by the municipality.

**22.18.030 Exemptions.**

There are no exemptions allowed for any projects.

**22.18.040 Standards.**

- A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:
  - 1. Water facilities. Each project shall be served by sufficient public water for supply and reserve capacity, as determined by the Director of Public Works in accordance with commonly accepted standards.
    - a. There shall be adequate storage in the facilities to satisfy the recommendations of the American Water Works Association (AWWA).
    - b. In the case of the water distribution system there shall be adequate capacity within the system to be able to deliver to a fire scene a minimum of two thousand gallons per minute of water, at a minimum residual pressure of twenty psi at each fire hydrant.
  - 2. Sewer Facilities. Each project shall be served by sufficient public sewage for sewage flows, as determined by the Director of Public Works in accordance with commonly accepted standards.

## Chapter 22.20 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE RECREATIONAL FACILITIES

### 22.20.010 Responsibility.

The Director of Recreation and Parks shall be responsible for review and assessment of a proposed project with regard to the adequacy of recreational facilities.

### 22.20.020 Goal.

The goal of adequate recreational facilities is to ensure that proposed projects contribute to and are served by adequate recreational facilities.

### 22.20.030 Exemptions.

This Chapter applies to proposed projects that include residential and mixed residential and commercial uses and buildings. All other proposed projects are exempt from the requirements of this Chapter.

### 22.20.040 Standards.

- A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:
1. One thousand square-feet of public recreational space per each single-family detached dwelling unit, seven hundred fifty square-feet of public recreational space per each single-family attached dwelling unit, and five hundred square-feet of public recreational space per each multifamily dwelling unit, two-family dwelling unit, or dwelling unit above the ground floor of nonresidential uses, within such proposed project or within a public recreational facility within one-half miles of the proposed project; or
  2. The fees in lieu of the provision of such public recreation space; or
  3. A combination of the above.

## Chapter 22.21 TRAFFIC IMPACT ANALYSES

### 22.21.010 Traffic impact analyses.

- A. Applicability. Notwithstanding any other provisions of this title, a traffic impact analysis shall be required for:
1. A project must have a traffic impact study if:
    - a. The proposed development and/or additions to existing structure is expected to generate two hundred fifty daily trips or more based upon trip generation rates published in the latest edition of the Trip Generation Manual, published by the Institute of Transportation Engineers (ITE); or
    - b. There are current traffic problems or issues in the project area, e.g. high traffic accident frequency; or
    - c. The proposed entrances and exits from the site are too close to an intersection.
  2. Exceptions. There are no exceptions to the criteria above.
- B. Procedures for the preparation of traffic impact analyses
1. The traffic impact analysis will be prepared based upon a uniform scope of work and methodology for traffic impact analyses entitled Traffic Impact Analysis for Proposed Development, City of Annapolis, Maryland, maintained by the Department of Planning and Zoning.
  2. The traffic impact analysis will be performed under the oversight of the Department of Planning and Zoning as follows:
    - a. Upon a determination that a development will require a Traffic Impact Analysis, the applicant will be notified of such.
    - b. The Department of Planning and Zoning will prepare a scope of services for the traffic impact analysis and solicit a cost estimate(s) from a competent consulting firm(s) for the preparation of the analysis.
    - c. The applicant will remit to the Department of Planning and Zoning sufficient funds for the completion of the analysis plus an administrative fee not to exceed ten percent of the projected cost of the analysis. If the completion of the analysis exceeds the funds applicant remitted to the Department of Planning and Zoning, the Department may withhold approval until full payment is remitted.
    - d. The Department of Planning and Zoning will contract directly with the consulting firm and oversee the

preparation of the traffic impact analysis.

e. All traffic analysis results will be incorporated into any Adequate Public Facilities Ordinance considerations.

3. The Department of Planning and Zoning shall be a party to all communications between the project developer and the consultant performing the Traffic Impact Analysis. Should communication occur, to which the Department of Planning and Zoning is not a party, the consultant may not be utilized again by the City of Annapolis, or the Department may, at its sole discretion, stop the Analysis and reinitiate a Traffic Impact Analysis with an alternative consultant at applicant expense.

## **Chapter 22.22 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE NON-AUTO TRANSPORTATION FACILITIES**

### **22.22.010 Responsibility.**

The Planning and Zoning Director shall be responsible for review and assessment of a proposed project with regard to the adequacy of non-auto transportation facilities, which review and assessment shall consider recommendations of the Director of Transportation.

### **22.22.020 Goal.**

The goal of adequate bicycle, pedestrian, and transit facilities is to increase accessibility and to ensure reasonable and assessable alternatives to automobile travel.

### **22.22.030 Exemptions.**

There are no exemptions under this Chapter for any proposed projects.

### **22.22.040 Standards.**

- A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:
  1. Bicycle Facilities. Proposed projects shall be served by adequate bicycle facilities where necessary throughout the site.
  2. Pedestrian Facilities. Proposed projects shall be served by sidewalks where necessary throughout the site, which sidewalks shall be constructed to City standards.
  3. Transit Facilities. Where a proposed project abuts an existing or planned bus line, the proposed project shall be served by a bus shelter at all existing and planned bus stops on roadways throughout the proposed project.
  4. Signalized Intersections. Signalized intersections adjacent to proposed projects shall have the appurtenances necessary for adequate bicycle, pedestrian, and transit facilities, including but not limited to crosswalks, signals, and non-auto curb cuts.

## **Chapter 22.24 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE STORMWATER MANAGEMENT FACILITIES**

### **22.24.010 Responsibility.**

The Director of Public Works shall be responsible for review and assessment of a proposed project with regard to the adequacy of stormwater management facilities.

(Ord. O-32-06 Revised § 1 (part), 2007)

### **22.24.020 Goal.**

The goal of adequate stormwater management facilities is to ensure that all public and private stormwater infrastructure as installed within a receiving drainage area is capable of handling a ten-year storm as calculated prior to installation. Consideration will be given to any existing or proposed infrastructure within the study impact area downstream of the point of discharge.

### **22.24.030 Exemptions.**

There are no exemptions under this Chapter for any proposed projects.

### **22.24.040 Standards.**

The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to a requirement that the proposed project complies with the provisions of Chapter 17.10 of the Annapolis City Code.

## **Chapter 22.25 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE SCHOOL FACILITIES**

### **22.25.010 Responsibility.**

The Director of Planning and Zoning shall be responsible for review and assessment of a proposed project with regard to the adequacy of school facilities.

### **22.25.020 Goal.**

The goal of reviewing and assessing adequate school facilities is to ensure that the proposed project is served by public schools that do not exceed capacity as described in Section 22.25.040.

### **22.25.030 Exemptions.**

The following are exempt from the requirements of this chapter:

- A. Non-residential projects;
- B. Residential subdivisions if no new dwelling unit potential is created;
- C. Efficiency and one bedroom dwelling units within the proposed development;
- D. Institutions for the care of the aged;
- E. Proposed projects in (1) the arts and entertainment district and (2) the boundaries as established by the Main Street Maryland Letter of Agreement for Designated Communities as shown on the Annapolis Main Street District Map dated 3/9/16;
- F. Age-restricted residential projects;
- G. Proposed projects that have received a certificate of adequate public facilities prior to the effective date of Ordinance 36-15; and
- H. Properties developed pursuant to Title 42, Chapter 8 of the United States Code Low Income Housing Program, or Section 42 of the Internal Revenue Code Low Income Housing Tax Credit Program, as long as school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be under one hundred twenty percent capacity for any individual school serving the area to be developed.

### **22.25.040 Standards.**

- A. The creation of a school utilization chart in accordance with paragraph D. of this section, shall occur on January 1 and July 1 of each year. The Director of Planning and Zoning shall prepare a school utilization chart for use on both of these dates each year.
- B. Testing for adequate school capacities is prepared by the Director of Planning and Zoning and is based on the school utilization chart, as described in paragraph D. below.
- C. Notwithstanding the definition of "proposed project" in Section 22.04.010, residential developments exceeding five dwelling units shall not be approved at locations where:
  - 1. The enrollment at the elementary and middle schools that serve the site, including enrollment at the elementary and middle schools from the proposed development and the number of elementary and middle schools students expected to attend based on the school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be equal to or greater than one hundred percent of the state rated capacity within three years, except that students who do not reside in the feeder system are excluded from the calculation; and
  - 2. The enrollment at the high school that serves the site, including enrollment at the high school from the proposed development and the number of high school students expected to attend based on the school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be equal to or greater than one hundred percent of the state rated capacity within three years, except that students who do not reside in the feeder system are excluded from the calculation.
- D. Except as otherwise provided in this chapter, the school capacity used in the school utilization chart shall include the following and shall not vary in substance from the information included in the Anne Arundel County Educational Facilities Master Plan, unless the variation is confirmed in writing by the Superintendent of the School Board, or the Superintendent's

designee, or approved by resolution of the City Council:

1. The existing capacity of the school based on the program requirements of the Anne Arundel County Board of Education; and
2. Enrollment as of September 30; and
3. Projected enrollment for the subsequent three years as provided by Anne Arundel County Schools; and
4. Any applicable future capacity if:
  - a. A contract for construction of the school or an addition to the school necessary to achieve the future capacity has been awarded; and
  - b. The Board of Education estimates that the construction will be completed in time to be used for the beginning of classes in the school year in which the future capacity is included in the school utilization chart; and
  - c. The capacity does not include capacity based on temporary or relocatable structures.

**22.25.050 Conditional review process.**

An applicant is not required to remain on the waiting list for consideration for more than six years and, at the end of six years, the applicant is entitled to approval of the development without regard to the adequacy of public facilities for schools. For the purposes of this chapter, the six-year period begins when the application for a certificate of adequate public facilities and corresponding application under Title 21 of the City Code is deemed complete by the Director of Planning and Zoning. Within fourteen days of the date when they are deemed complete, the Director of Planning and Zoning shall notify the applicant in writing of whether the application has been deemed complete for the purposes of this chapter. If the application is not deemed complete, the Director shall specify to the applicant any additional information needed to complete the application. The Director may extend the deadline for notification for an additional fourteen days as needed with written notice to the applicant.

**Chapter 22.26 APPROVAL OR DENIAL OF CERTIFICATE OF ADEQUATE PUBLIC FACILITIES**

**22.26.010 Approval.**

Upon determining the adequacy of all facilities, or that all facilities will be adequate because a proposed project is in compliance with the provisions of Chapter 22.28, the Planning and Zoning Director shall approve the application for a Certificate of Adequate Public Facilities by issuing said Certificate to the applicant. The Planning and Zoning Director shall not approve an application for a Major Site Design Plan until such time as an applicant is issued a Certificate of Adequate Public Facilities.

**22.26.020 Denial.**

If there is a determination of inadequacy of one or more of the facilities in this Chapter and if no mitigation plan has been submitted by the applicant in accordance with the provisions of Chapter 22.28, the Director of Planning and Zoning shall:

- A. Issue to the applicant a denial of the application for a Certificate of Adequate of Public Facilities for such proposed project; or
- B. Upon request of the applicant, place the proposed project on a waiting list established and maintained by the Department of Planning and Zoning in consultation with the applicable departments. As facilities become adequate with regard to a proposed project on the waiting list because the adequacy standards have been satisfied or because the applicant has submitted a mitigation plan pursuant to Chapter 22.28, the Director of Planning and Zoning shall approve the application for a Certificate of Adequate Public Facilities for such proposed project by issuing said Certificate to the applicant.

**22.26.030 Approval pursuant to funding for facilities.**

If a facility is scheduled to be improved under any relevant Capital Improvement Program of the City, County, State or any relevant agency thereto and is funded for construction, the facility shall be deemed adequate.

**22.26.040 Phased development.**

The Director of Planning and Zoning may issue a Certificate of Adequate Public Facilities in conjunction with a Major Site Design Plan approval for an entire proposed project or, at the request of the applicant, the Director may issue separate and successive Certificates of Adequate Public Facilities for phases of a proposed project.

**22.26.050 Resubmittal.**

An application for a Certificate of Adequate Public Facilities that is not placed on the wait list pursuant to Section 22.26.020(B) but is denied under Section 22.26.020(A) may not be resubmitted by an applicant until after six months from the date of denial.

## **Chapter 22.28 MITIGATION**

### **22.28.010 Opportunity to mitigate.**

- A. An applicant whose proposed project is subject to denial or delay under this title shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the applicant's application under this title for a Certificate for Adequate Public Facilities.
- B. The forms and levels of mitigation required of an applicant shall be roughly proportionate to the projected impact of the proposed project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facilities as outlined in Section 22.28.010.
- C. For a school facility, mitigation consists of the construction or funding of improvements by a developer that increase capacity of the school facility which, at the time of application, is below the minimum standard in the impact area so that the capacity of the facility in the scheduled completion year is equal to, or greater than, it would have been had the development not been constructed. A mitigation plan with physical improvements may be secured by bond, letter of credit or other security acceptable to the City and shall be provided under an agreement with the Board of Education to construct school facilities, including contract schools. The developer shall submit a cost estimate to establish the value of construction offered in mitigation in conformance with City specifications. Capital improvements to any portion of the developer's property or project, pursuant to a school capacity mitigation agreement, shall be made available and shall provide school capacity to allow approval of preliminary subdivision plan applications that are filed within six years of the date of the school capacity mitigation agreement.

### **22.28.020 Process.**

- A. Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the proposed project had not been developed.
- B. To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.
- C. If a department finds that a facility is or would be inadequate as a result of more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
- D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.

## **Chapter 22.30 TIMING OF CERTIFICATION**

### **22.30.010 Expiration.**

- A. A Certificate of Adequate Public Facilities shall expire at the end of five years from the date of issuance, unless:
  - 1. The applicant has recorded a plat or plats for the proposed project; or
  - 2. The applicant has obtained a building permit for any part of the proposed project.
- B. If a Certificate of Adequate Public Facilities expires, a new application for a Certificate of Adequate Public Facilities shall be required for the proposed project. Upon new application, the facilities existing or planned at the time of the new application shall control.

### **22.30.020 Extensions.**

- A. A request to extend the time of expiration of a Certificate of Adequate Public Facilities shall be submitted to the Director of

Planning and Zoning prior to the expiration of the original approval.

- B. A Certificate of Adequate Public Facilities shall be extended by the Planning and Zoning Director for up to two five-year periods from the expiration of the original approval or any extended approval only upon a showing of good cause and provided that the intervening approvals of Certificates of Adequate Public Facilities for other proposed projects took into consideration the proposed project's impact on facilities, as required by Section 22.10.010(C).
- D. If the materials and analyses indicate that one or more facilities will not be adequate for the proposed project, the applicant shall proceed in accordance with the requirements of Chapter 22.28.

## **Chapter 22.32 APPEALS**

### **22.32.010 Appeals.**

An appeal from the decision of the Director of Planning and Zoning to approve or deny an application for a Certificate of Adequate Public Facilities shall be made to the Board of Appeals in conformance with the provisions of Title 21, Chapter 21.30.

### **22.32.020 Stay pending appeal.**

An appeal shall stay all proceedings in furtherance of the action appealed.

## **Title 22 - ADEQUATE PUBLIC FACILITIES**

### **22.02.010 - Purpose.**

The purposes of testing for and certification of Adequate Public Facilities are to:

1. Assure that development and redevelopment occur in concert with the Capital Improvement Program and will enable the City to provide adequate public facilities in a timely manner and achieve the growth objectives of the Comprehensive Plan as defined in Title 21.
2. Assure that proposed development protects public health and safety, promotes the general welfare of the community, and conserves the environment.
3. Encourage new development to occur in areas of the City where public facilities are being provided.

### **22.02.020 - Time by which adequacy standards must be met.**

Adequacy standards shall be achievable within a six-year timeframe.

1. Adequacy standards may be achieved:
  - a. By the applicant through an executed mitigation agreement; or
  - b. When appropriate, by the City through the Capital Improvement Program.
2. An applicant is not required to remain on a waiting list for more than six years.
3. At the end of six years, an applicant is entitled to move forward with the proposed project without regard to the adequacy of public facilities.

## **Chapter 22.04 - DEFINITIONS**

### **22.04.010 - Definitions.**

As used in this title, the following words have the meanings indicated:

1. "Adequacy" means that adequate facilities exist or are expected to exist to serve existing development and the proposed project.
2. "Age-restricted residential project" means any housing that is either:
  - a. Provided under any state or federal program that the Secretary of Housing and Urban Development (HUD) determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
  - b. Intended for, and solely occupied by, persons 62 years of age or older, except that a live-in caregiver who

is less than 62 years of age is allowed for a resident with a disability that meets the definition of a disability under 42 U.S.C. § 12102; or

- c. Intended and operated for occupancy by persons 55 years of age or older, and:
  - i. At least 80% of the occupied units are occupied by at least one person who is 55 years of age or older; and
  - ii. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and
  - iii. The housing facility or community complies with rules issued by the Secretary of Housing and Urban Development (HUD) for verification of occupancy, which shall:
    - (a) Provide for verification by reliable surveys and affidavits; and
    - (b) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of subparagraph (c)(ii) of this definition.
    - (c) Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of the verification.
    - (d) The age restriction shall be noted on the plat and recorded in the land records for Anne Arundel County.
3. "Applicant" means a person, partnership, firm, corporation, company, any other entity or combination of entities, or an agent thereof, with an interest in the proposed development, that undertakes or participates in the activities covered by this Title, and that applies for a Certificate of Adequate Public Facilities.
4. "Development" means the construction or enlargement of residential, commercial, industrial, institutional, or transportation uses or principal structures.
5. Inadequacy" means that adequate facilities are not currently available to serve existing development and the proposed project.
6. "Major site design plan" is as defined in Subsection 21.22.020(B)(1) for a project covered by this Title.
7. "Proposed project" means all new development or redevelopment of any non-residential building or any mixed-use development of non-residential and residential uses proposed by an applicant if the proposed development is greater than 10,000 square feet in area or is a residential subdivision of more than 11 lots regardless of the square footage of the development.
8. "Public facility" means:
  - a. Fire, rescue, and emergency medical services; and
  - b. Police protection services; and
  - c. City roads and sidewalks; and
  - d. Water and sewer services; and
  - e. Recreational facilities; and
  - f. Non-auto transportation facilities; and
  - g. Storm drain facilities; and
  - h. Public schools managed by the Anne Arundel County Board of Education.
9. "Redevelopment" means substantial improvement of any existing principal structure on a site.
10. "Substantial improvement" means:
  - a. Any reconstruction, rehabilitation, addition, or other improvements to a structure other than a historic structure, the cost of which equals or exceeds 50% of the State's assessed value of the structure; or
  - b. An appraisal performed by a professional real estate appraiser:
    - i. of the market value of the structure (less land value) before the commencement of the

- reconstruction, rehabilitation, addition, or other improvement; or
- ii. if the structure has been damaged and was being restored before the damage occurred, but the term does not include the minimum repairs needed to correct violations of applicable health, safety, or sanitary codes.

### **Chapter 22.06 - CERTIFICATE OF ADEQUATE PUBLIC FACILITIES**

#### **22.06.010 - Certificate required.**

A Certificate of Adequate Public Facilities is required to be issued before approval of a Major Site Design Plan application under Section 21.22.060 of the Zoning Code and any approval of Planned Developments under Chapter 21.24 of the Zoning Code for all proposed projects subject to this Title.

#### **22.06.020 - Written findings and conclusions.**

- A. **Information from other departments.** Before a Certificate of Adequate Public Facilities may be issued as required by Section 22.06.010 of this title, the Director of Planning and Zoning shall receive the written findings and conclusions from each director or department responsible for the applicable facilities as to the adequacy or inadequacy of the facilities as specified in this Title.
- B. **Information certifies adequacy.** A Certificate of Adequate Public Facilities may not be issued until such time as the written findings and conclusions from each director or department responsible for the applicable facilities are delivered and that certify the adequacy of the applicable facilities.

### **Chapter 22.08 - ADMINISTRATION**

#### **22.08.010 - Administering Department.**

- A. **Who administers.** The Department of Planning and Zoning administers the application process for a Certificate of Adequate Public Facilities, with support from each director or department responsible for the applicable facilities.
- B. **Standards on the website.** The Department of Planning and Zoning shall publish on the City's website the standards the Departments use for certification purposes.

#### **22.08.020 - Materials.**

- A. **Contemporaneous applications.** An application for a Certificate of Adequate Public Facilities shall be made by an applicant contemporaneously with an application for site design review and approval of a Major Site Design Plan or Planned Development, under Title 21, for a proposed project.
- B. **Required information.** The applicant shall provide any materials that the Director of Planning and Zoning may reasonably require to be submitted. Any other materials related to an application for a Certificate of Adequate Public Facilities shall be submitted to the Director of Planning and Zoning.

#### **22.08.030 - Referral.**

The Director of Planning and Zoning shall promptly refer all materials related to an application for a Certificate of Adequate Public Facilities to the director or department responsible for the applicable facilities for written findings, conclusion, and certification that:

1. The facilities are adequate for the proposed project, or
2. The facilities will be adequate for a proposed project because the project is in compliance with the mitigation provisions of Chapter 22.28 of this title, or
3. The facilities are inadequate for a project.

#### **22.08.040 - Review and issuance of Certificate of Adequate Public Facilities.**

- A. **Certification.** After review of the application and the submitted materials in conjunction with all pertinent data and measurements on the facility or facilities under review, the director of each department responsible for the applicable facilities shall certify the adequacy or inadequacy of the public facilities that are to serve the proposed project, based upon the standards contained in this Title.

- B. **Departmental conclusions.** A written copy of each department director's findings and conclusions shall be forwarded to the Director of Planning and Zoning Director.
- C. **Issuance of Certificate.** Subject to the Approval or Denial Section, §22.28.010 of this title, if all applicable departments have certified that the proposed project can be served by adequate public facilities, the Director of Planning and Zoning shall issue a Certificate of Adequate Public Facilities to the applicant.
- D. **Non-issuance of Certificate; mitigation.** If the Director of Planning and Zoning finds that one or more of the departments have found inadequacy in the public facilities that would serve the proposed project, no Certificate shall be issued, and the Director of Planning and Zoning shall notify the applicant so the applicant may proceed in accordance with the mitigation provisions of this title.

### **Chapter 22.10 - GENERAL REVIEW CRITERIA**

#### **22.10.010 - Development or redevelopment to be included.**

In determining the adequacy or inadequacy of public facilities, departments responsible for the applicable facilities shall consider the following:

1. Residential, commercial, and mixed-use development and approved development existing within the City; and
2. Proposed projects for which a Certificate of Adequate Public Facilities has been issued under this Title; and
3. Proposed projects for which an application for a Certificate of Adequate Public Facilities has been applied.; and
4. The Capital Improvement Program, including projected facilities, the Comprehensive Plan, and any other land use conditions that the Director of Planning and Zoning may reasonably prescribe to be considered by the departments.

#### **22.10.020 - Process.**

##### **A. Generally.**

1. Each director or department responsible for the applicable facilities shall, for each facility, collect and maintain current information on the facility, existing levels of service, and projected levels of service.
2. The Fire Chief and the Police Chief shall each annually assess the response times for adequate fire, rescue, and emergency services, and for the officer ratio and response times for adequate police protection.
  - a. The Fire Chief and the Police Chief, respectively, shall each assess and otherwise measure annually the facilities for which they are responsible:
    - i. Each shall prepare a separate report of the assessments and measurements by September 1st of each year.
    - ii. Each shall forward the assessments and measurements to the Director of Planning and Zoning for use in conjunction with this Title.
  - b. If the annual summary shows that the facilities meet the standards for adequacy of public facilities, the facilities are adequate, and all projects shall be deemed to meet the adequacy standards.
  - c. If the summary shows that one or more of the facilities do not meet the standards, the facilities are inadequate, and applicants may proceed in accordance with the mitigation provisions of this title.
3. Each director or department responsible for the applicable facilities, including the Fire Chief and Police Chief, may employ persons or contract for services as may be necessary to implement the information collection and assessments.

##### **B. Procedures.**

##### **1. Evaluation.**

- a. Upon referral of all materials related to an application for a Certificate of Adequate Public Facilities to each director or department responsible for the applicable facilities, the director of the department shall assess and otherwise measure the projected levels of service of the facility or facilities as impacted by the proposed project in accordance with the standards contained in this Title.
- b. In the director's sole discretion, the director may request that an applicant provide supplemental

information regarding the development or redevelopment of the proposed project and estimates of the facility services that the proposed project will demand.

- c. When a director's review and assessment of adequacy is contingent upon the findings and conclusions of another department, the director of the reviewing department shall promptly transmit copies of the materials to those departments for written comments that include recommending a finding of adequacy or inadequacy of facilities with regard to the proposed project.
- d. Notwithstanding any recommendation, only the director or department responsible for the applicable facilities can issue findings or conclusions as to the adequacy or inadequacy of facilities.

**2. Findings and Conclusions.**

- a. Following the assessment and measurement of the projected levels of service of the facility or facilities as impacted by the proposed project and, if applicable, based upon the comments of other departments, the director or department responsible for the applicable facilities shall determine the adequacy of facilities to serve the proposed project under review.
- b. If a director determines that the facilities under review are or will be adequate for a proposed project, the findings and conclusions shall be forwarded to the Director of Planning and Zoning.
- c. If a director determines that one or more facilities are or will not be adequate for a proposed project, the applicant may proceed in accordance with the mitigation provisions of this title.

**3. Transmittal to the Director of Planning and Zoning.**

Upon determining that (a) the facilities are adequate for a proposed project, (b) the facilities will be adequate for the proposed project by virtue of a mitigation plan in compliance with the provisions of this title, or (c) the facilities are inadequate for a project, the director of the reviewing department shall forward a written copy of the findings and conclusions to the Director of Planning and Zoning.

**Chapter 22.12 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE  
CITY ROADS AND SIDEWALK FACILITIES**

**22.12.010 - Responsibility.**

The Director of Public Works is responsible for review and assessment of a proposed project with regard to the adequacy of City roads and sidewalk facilities.

**22.12.020 - Goal.**

The goal of adequate City road and sidewalk facilities is to ensure that all City roads and sidewalks within the impact area of a proposed project, meaning all City roads and sidewalks bordering or providing access to the property, continuous through to the first intersection in all directions and including public sidewalks and corners bordering the impacted public roads and intersections, meet the standards contained in this Chapter.

**22.12.030 - Applicability.**

This Chapter applies to all proposed projects.

**22.12.040 - Standards.**

The standards for adequacy of City roads and sidewalk facilities are contained in Title 21 of the City Code, and the following conditions also apply:

1. All City roads within the impact area shall have an adequacy pavement condition rating of not less than 70 or a remaining surface life of 10 years, as defined by the City's road rating program;
2. All City roads and adjacent sidewalks shall have standard bituminous concrete, brick, or concrete surfaces in accordance with City of Annapolis details and specifications.

**Chapter 22.14 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**

**FIRE, RESCUE, AND EMERGENCY MEDICAL SERVICES**

**22.14.010 - Responsibility.**

The Fire Chief is responsible for review and assessment of a proposed project with regard to adequacy of fire, rescue, and emergency medical services.

**22.14.020 - Goal.**

The goal of adequate fire, rescue, and emergency medical services is to ensure that emergency response times are maintained at or above an established minimum; that the deployment of resources necessary to respond to both fire and non-fire emergencies are maintained at or above an established minimum; and that adequate water supply is available for effective firefighting and fire suppression.

**22.14.030 - Applicability.**

A proposed project is exempt from the adequate fire flow and flow duration requirements of the National Fire Protection Association codes and standards if the proposed project includes a sprinkler system not required by law. Otherwise, this Chapter applies to all proposed projects.

**22.14.040 - Standards.**

**A. Standards.** The standards required for adequacy of fire, rescue, and emergency medical services are:

**1. Response Times.**

- a. Fire incident response time for the arrival of an initial company shall be within a four-minute response time or initial full alarm assignment within an eight-minute response time to 90% of incidents as measured annually in accordance with Section 22.10.020 of this title.
- b. Emergency Medical Services (EMS) incident response time for the arrival of a first responder with an Automated External Defibrillator (AED) shall be within a four-minute response time to 90% of incidents as measured annually in accordance with Section 22.10.020 of this title.
- c. Emergency Medical Services (EMS) incident response time for the arrival of an Advanced Life Support (ALS) company shall be within an eight-minute response time to 90% of incidents as measured annually in accordance with Section 22.10.020 of this title.

2. **Fire Flow and Flow Duration.** Fire flow and flow duration shall be in accordance with the National Fire Protection Association codes and standards.

**Chapter 22.16 - REVIEW CRITERIA AND CERTIFICATION FOR  
ADEQUATE NON-AUTO TRANSPORTATION FACILITIES**

**22.16.010 - Responsibility.**

The Director of Planning and Zoning is responsible for review and assessment of a proposed project with regard to the adequacy of non-auto transportation facilities. The review and assessment shall consider recommendations of the Director of Transportation.

**22.16.020 - Goal.**

The goal of adequate bicycle, pedestrian, and transit facilities is to increase accessibility and to ensure reasonable and assessable alternatives to automobile travel.

**22.16.030 - Applicability.**

This Chapter applies to all proposed projects.

**22.16.040 - Standards.**

The standards required for non-auto transportation facilities are:

1. **Bicycle Facilities.** Proposed projects shall be served by adequate bicycle facilities throughout the site.
2. **Pedestrian Facilities.** Proposed projects shall be served by sidewalks where necessary throughout the site.

constructed to City standards.

3. **Transit Facilities.** If a proposed project abuts an existing or planned bus line, the proposed project shall be served by a bus shelter at all existing and planned bus stops on roadways throughout the proposed project.
4. **Signalized Intersections.** Signalized intersections adjacent to proposed projects shall have the appurtenances necessary for adequate bicycle, pedestrian, and transit facilities, including crosswalks, signals, and non-auto curb cuts.

## **Chapter 22.18 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE POLICE PROTECTION**

### **22.18.010 - Responsibility.**

The Police Chief is responsible for review and assessment of a proposed project with regard to the adequacy of police protection.

### **22.18.020 - Goal.**

The goal of adequate police facilities is to ensure that law and order are maintained, the laws of the City of Annapolis are enforced, and to create and sustain an environment of personal safety and security of property among citizens, businesspersons, and visitors.

### **22.18.030 - Applicability.**

This Chapter applies to all proposed projects.

### **22.18.040 - Standards.**

A. **Definition.** For purposes of this Chapter only, "Police Officer" means an individual who is:

1. certified by the Maryland Police and Training Standards Commission; and
2. employed by the Annapolis Police Department.

B. **Standards.** The standards for the adequacy of police protection are:

1. **Officer Ratio.** The ratio of police officers authorized in the current City budget to City residents shall not be less than 3.2 officers per every 1,000 City residents.
2. **Average Response Time.** The average response time within the City shall not be greater than two minutes and 30 seconds for a priority one emergency response and for the initial annual period. Any subsequent average response time may not increase more than 10% from the annual period immediately prior.

## **Chapter 22.20 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE RECREATIONAL FACILITIES**

### **22.20.010 - Responsibility.**

The Director of Recreation and Parks is responsible for review and assessment of a proposed project with regard to the adequacy of recreational facilities.

### **22.20.020 - Goal.**

The goal of adequate recreational facilities is to ensure that proposed projects contribute to and are served by adequate recreational facilities.

### **22.20.030 - Applicability.**

This Chapter applies to proposed projects that include residential, whether or not combined with other uses. This Chapter does not apply to other proposed projects.

### **22.20.040 - Standards.**

The standards for adequate recreational facilities are as follows:

1. The applicant shall:
  - a. Provide:
    - i. 1,000 square feet of public recreational space for each single-family detached dwelling unit; and
    - ii. 750 square feet of public recreational space for each single-family attached dwelling unit; and
    - iii. 500 square feet of public recreational space for each multifamily dwelling unit, two-family dwelling unit, or for a dwelling unit above the ground floor of nonresidential uses; or
  - b. Pay a fee, as provided in a resolution adopted by the City Council, in lieu of the provision of the public recreation area, which fee shall be deposited into a designated fund to be administered by the Director of Recreation and Parks; or
  - c. Provide a combination of the two.
2. Public recreational space shall be located within the proposed project or within a public recreational facility within one-half mile of the proposed project.

**Chapter 22.22 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE  
SCHOOL FACILITIES**

**22.22.010 - Responsibility.**

The Director of Planning and Zoning is responsible for review and assessment of a proposed project with regard to the adequacy of school facilities.

**22.22.020 - Goal.**

The goal of reviewing and assessing adequate school facilities is to ensure that the proposed project is served by public schools that do not exceed the capacities set forth in Section 22.22.040 of this title.

**22.22.030 - Applicability.**

This Chapter does not apply to the following proposed projects:

1. Non-residential projects; and
2. Residential subdivisions if no new dwelling unit potential is created; and
3. Efficiency and one-bedroom dwelling units within the proposed development; and
4. Institutions for the care of the aged; and
5. Proposed projects in (1) the arts and entertainment district and (2) the boundaries as established by the Main Street Maryland Letter of Agreement for Designated Communities as shown on the Annapolis Main Street District Map dated 3/9/16; and
6. Age-restricted residential projects; and
7. Proposed projects that have received a certificate of adequate public facilities prior to the effective date of Ordinance 36-15; and
8. Properties developed pursuant to Title 42, Chapter 8 of the United States Code Low Income Housing Program, or Section 42 of the Internal Revenue Code Low Income Housing Tax Credit Program, as long as school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be under 120% capacity for any individual school serving the area to be developed.

Otherwise, all proposed projects are subject to this Chapter.

**22.22.040 - Standards.**

- A. **Utilization chart.** The creation of a school utilization chart in accordance with paragraph D. of this section shall occur on January 1 and July 1 of each year. The Director of Planning and Zoning shall prepare a school utilization chart for use on

both of these dates each year.

- B. **Testing.** Testing for adequate school capacities is prepared by the Director of Planning and Zoning and is based on the school utilization chart, as described in paragraph D.
- C. **Not allowed.** Notwithstanding the definition of "proposed project" in Section 22.04.010 of this title, residential developments exceeding five dwelling units may not be approved at locations where:
1. The enrollment at the elementary and middle schools that serve the site, including enrollment at the elementary and middle schools from the proposed development and the number of elementary and middle schools students expected to attend based on the school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be equal to or greater than 100% of the state rated capacity within three years, except that students who do not reside in the feeder system are excluded from the calculation; and
  2. The enrollment at the high school that serves the site, including enrollment at the high school from the proposed development and the number of high school students expected to attend based on the school pupil generation factors yield per unit contained in the Anne Arundel County Educational Facilities Master Plan, is currently or projected to be equal to or greater than 100% of the state rated capacity within three years, except that students who do not reside in the feeder system are excluded from the calculation.
- D. **Utilization chart contents.** Except as otherwise provided in this chapter, the school capacity used in the school utilization chart shall include the following and shall not vary in substance from the information included in the Anne Arundel County Educational Facilities Master Plan unless the variation is confirmed in writing by the Superintendent of the School Board or the Superintendent's designee, or is approved by resolution of the City Council:
1. The existing capacity of the school based on the program requirements of the Anne Arundel County Board of Education; and
  2. Enrollment as of September 30; and
  3. Projected enrollment for the subsequent three years as provided by Anne Arundel County Schools; and
  4. Any applicable future capacity if:
    - a. A contract for construction of the school or an addition to the school necessary to achieve the future capacity has been awarded; and
    - b. The Board of Education estimates that the construction will be completed in time to be used for the beginning of classes in the school year in which the future capacity is included in the school utilization chart; and
    - c. The capacity does not include capacity based on temporary or relocatable structures.

**22.22.050 - Notice to the applicant regarding completion of applications.**

- A. **Completed application.** Within 14 days of the date upon which the Director of Planning and Zoning determines that an application for a certificate of adequate public facilities and corresponding application under Title 21 <[https://library.municode.com/md/annapolis/codes/code\\_of\\_ordinances?nodeId=TIT21PLZO](https://library.municode.com/md/annapolis/codes/code_of_ordinances?nodeId=TIT21PLZO)> of the City Code is deemed complete, the Director of Planning and Zoning shall notify the applicant in writing whether the application is deemed complete for purposes of this chapter.
- B. **Incomplete application.** If the application is not deemed complete, the Director shall specify any additional information needed to complete the application.
- C. **Application extensions.** The Director may extend the deadline for notification for up to an additional 14 days, with written notice to the applicant.

**Chapter 22.24 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE STORM DRAIN FACILITIES**

**22.24.010 - Responsibility.**

The Director of Public Works is responsible for review and assessment of a proposed project with regard to the adequacy of storm drain facilities.

**22.24.020 - Goal.**

The goal of adequate storm drain facilities is to ensure that all public and private stormwater infrastructure, as installed within a receiving drainage area, is capable of handling a 10-year storm as calculated prior to installation. Consideration will be given to any existing or proposed infrastructure within the study area downstream of the point of discharge.

**22.24.030 - Applicability.**

This Chapter does not apply to a proposed project that qualifies as redevelopment and does not increase impervious surface. Otherwise, this Chapter applies to all proposed projects.

**22.24.040 - Standards.**

The standards for the adequacy of storm drain facilities are:

1. The storm drain system shall be capable of conveying through and from the property to an adequate outfall.
2. Offsite downstream storm drain systems shall be capable of conveying the 10-year storm to an adequate outfall.

**Chapter 22.26 - REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE  
WATER AND SEWER FACILITIES**

**22.26.010 - Responsibility.**

The Director of Public Works is responsible for review and assessment of a proposed project with regard to the adequacy of adequate water and sewer facilities.

**22.26.020 - Goal.**

The goal of adequate water and sewer facilities is to ensure that there is sufficient capacity in the City-owned water source, storage, pumping, and distribution systems, the City-owned sewer collection and pumping systems, and the City co-owned Annapolis Water Reclamation Facility.

**22.26.030 - Applicability.**

This Chapter applies to all proposed projects.

**22.26.040 - Standards.**

After accounting for all existing and future demands and flows, the standards for the adequacy of water and sewer facilities are:

- 1. Water facilities.** A proposed project shall be served by sufficient public water for supply and reserve capacity, as follows:
  - a. The source facilities in the area have sufficient available capacity to provide maximum day demand to the proposed project.
  - b. The storage tanks in the area have sufficient available capacity to provide peak hour demand in addition to fire flow and flow duration in accordance with the National Fire Protection Association codes and standards.
  - c. Local pumping stations provide water to the proposed project with sufficient available capacity to provide maximum day demand when storage facilities are available on the discharge side or with sufficient capacity to provide for fire flow when storage facilities are not available on the discharge side.
  - d. The distribution system is capable of providing normally required pressure to the proposed project and of providing minimum residual pressure in the City's water system under fire flow requirements for the project in accordance with the National Fire Protection Association codes and standards.
- 2. Sewer Facilities.** A proposed project shall be served by sufficient public sewer facilities for sewage flows, as follows:
  - a. Laterals in the right-of-way accommodate expected peak flows from the proposed project.
  - b. Collectors and interceptors accommodate expected peak gravity flows from the proposed project with

adjustments for pump flows if applicable.

- c. Pumping stations and force mains tributary to the project area accommodate expected peak flows from the proposed project.
- d. The Annapolis Water Reclamation Facility's allocated City capacity accommodates the expected peak flows from the proposed project.

### **Chapter 22.28 - APPROVAL OR DENIAL OF CERTIFICATE OF ADEQUATE PUBLIC FACILITIES**

#### **22.28.010 - Approval.**

- A. **Issuance.** Upon determining the adequacy of all facilities, or that all facilities will be adequate by a mitigation plan in compliance with this Title, the Director of Planning and Zoning shall approve the application for a Certificate of Adequate Public Facilities by issuing the Certificate to the applicant.
- B. **When approval of Major Site Design Plan is prohibited.** The Planning and Zoning Director may not approve an application for a Major Site Design Plan until the applicant is issued a Certificate of Adequate Public Facilities.

#### **22.28.020 - Denial; waiting list.**

If there is a determination of inadequacy of one or more of the facilities in this Chapter and if the applicant has submitted no mitigation plan in compliance with this Title, the Director of Planning and Zoning shall:

1. Issue to the applicant a denial of the application for a Certificate of Adequate of Public Facilities for the proposed project; or
2. Upon the applicant's request, place the proposed project on a waiting list established and maintained by the Department of Planning and Zoning in consultation with the applicable departments.
3. As facilities become adequate for a proposed project on the waiting list because the adequacy standards have been satisfied or because the applicant has submitted a mitigation plan under Chapter 22.28 of this title, the Director of Planning and Zoning shall approve the application for a Certificate of Adequate Public Facilities for the proposed project by issuing the Certificate to the applicant.

#### **22.28.030 - Approval pursuant to funding for facilities.**

The facility shall be deemed adequate if a facility is scheduled to be improved under any relevant capital improvement program of the City, County, State, or any relevant agency and is funded for construction.

#### **22.28.040 - Phased development.**

The Director of Planning and Zoning may issue a Certificate of Adequate Public Facilities in conjunction with a Major Site Design Plan approval for an entire proposed project or, at the request of the applicant, the Director may issue separate and successive Certificates of Adequate Public Facilities for phases of the proposed project.

#### **22.28.050 - Resubmittal.**

An application for a Certificate of Adequate Public Facilities that is not placed on the waiting list pursuant to Subsection 22.28.020 of this title, but is denied under Subsection 22.28.020 of this title, may not be resubmitted by an applicant until after six months from the date of denial.

### **Chapter 22.30 - MITIGATION**

#### **22.30.010 - Opportunity to mitigate.**

- A. **Generally.** An applicant whose proposed project is subject to denial or delay under this Title shall be given an opportunity to provide infrastructure funds, improve facilities directly, or donate necessary facilities to approve the applicant's application under this title for a Certificate for Adequate Public Facilities.
  1. The capacity, safety or other facility standard after mitigation shall be roughly proportional to levels prior to the proposed project's development, as determined by the Director of Planning and Zoning in consultation with the other departments responsible for the applicable facility.
  2. A mitigation plan shall include all information required by the Director of Planning and Zoning and all information

required by applicable departments.

**B. City roads and sidewalks.**

1. For an inadequate City road facility, mitigation may include repairing the public road to full width, with a minimum of a two-inch bituminous concrete overlay. Public roadways that do not have a bituminous concrete, brick, or concrete surface shall be properly graded and paved using the Type 3, light-duty road paving section.
2. The pavement width and the need for curb and gutter, sidewalk, and storm drainage to be constructed as part of the roadway is determined by the Department of Public Works.
3. For an inadequate sidewalk facility, mitigation may include sidewalk extensions, connections, repairs, and widening, as determined by the Department of Public Works.

**C. Fire, rescue, and emergency medical services.**

1. For the response times set forth in this Title, the mitigation may include the building of a fire station, paying into a specified fund an agreed-upon amount of money for a specified amount of time to assist the City in building a fire station or paying into a specified fund an agreed upon amount of money for a set amount of time to assist the City in hiring and retaining additional personnel.
2. For fire flow and flow duration standards set forth in this Title, the mitigation may include building a private fire protection water supply approved by the Director of Planning and Zoning after consultation with other applicable departments.

**D. Non-auto transportation.** The mitigation for inadequate non-auto transportation facilities may include offsite bicycle facilities, offsite pedestrian facilities, offsite transit facilities, and offsite signalized intersections.

**E. Police protection.**

1. If the Chief of Police determines that a planned development or redevelopment would negatively impact the City's ability to provide the required level of police service based on the officer ratio set forth in this Title, the Chief of Police may require, as mitigation, that the applicant provide or contribute, concurrent with the project, measures sufficient to equal or exceed the required level of service, as follows:
  - a. Security enhancements, including Annapolis Police Department compatible security cameras, the hiring of off-duty police officers, the hiring of private security, the hiring of contractual City Police officers, or other measures approved by the Chief of Police and City Manager; or
  - b. Social services enhancements, including hiring of a private social worker, the hiring of contractual City social workers, or other measures approved by the Chief of Police and City Manager; or
  - c. A combination of security and social services enhancements approved by the Chief of Police and City Manager; or
  - d. The building of a police station; or
  - e. Paying an agreed-upon amount of money for a specified amount of time to assist the City in building a police station; or
  - f. Paying an agreed-upon amount of money for a specified amount of time to assist the City in hiring and retaining additional personnel.

**F. Schools.**

1. For a school facility, mitigation consists of the construction or funding of improvements by a developer that increases the capacity of the school facility, which, at the time of the application, is below the minimum standard in the impact area so that the capacity of the facility in the scheduled completion year is equal to, or greater than, it would have been had the development not been constructed. A mitigation plan with physical improvements may be secured by a bond, a letter of credit, or other security acceptable to the City. It shall be provided under an agreement with the Board of Education to construct school facilities, including contract schools.
2. The developer shall submit a cost estimate to establish the value of construction offered in mitigation in conformance with City specifications. Capital improvements to any portion of the developer's property or project, pursuant to a school capacity mitigation agreement, shall be made available and shall provide school capacity to allow approval of preliminary subdivision plan applications that are filed within six years of the date of the school

capacity mitigation agreement.

G. **Storm drains.** For inadequate storm drain systems, mitigation may include increased stormwater management, the design, construction, or repair of stormwater pipes, utility holes, conveyances, storage, or outfalls, and the payment of a fee, as provided in a resolution adopted by the City Council, which fee shall be deposited into a designated fund to be administered by the Director of Public Works.

H. **Water and sewer.**

1. For the required water pressure set forth in this Title, mitigation may include designing and constructing a water pressure zone.
2. For laterals, collectors, and interceptors that cannot accommodate peak flows as set forth in this Title, mitigation may include the replacement of pipes with larger pipes.
3. For pumping stations that cannot accommodate peak flows as set forth in this Title, mitigation may include the design and construction of new pumps, a pumping station, or a force main.

22.30.020 - **Process.**

- A. **Mitigation plan.** To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for reviewing and assessing each facility that would be deemed inadequate.
1. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the project's impact on the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning.
  2. The mitigation plan shall require the applicant to provide the agreed-upon mitigation. In return, the Director of Planning and Zoning shall determine that the facility or facilities will be adequate for the proposed project.
- B. **Inadequacy due to more than one project.** If a department finds that a facility is or would be inadequate due to more than one proposed project, the department may apportion the responsibility and cost of mitigation among all contributing projects. The apportionment shall be reflected in the applicable mitigation plans.
- C. **Approval of the plan.** A mitigation plan shall be approved by the Director of Planning and Zoning and by the department responsible for the facility.
- D. **Applicant rejects mitigation.** If a facility is inadequate for a project and the applicant cannot agree on acceptable forms and levels of mitigation for the facility such that the applicant enters into no mitigation plan, the department shall determine that the facility is inadequate to support the project.

**Chapter 22.35 - TIMING OF CERTIFICATION**

22.35.010 - **Expiration.**

- A. **At the end of five years.** Unless extended under Section 22.35.020 of this title, a Certificate of Adequate Public Facilities shall expire at the end of five years from the date of issuance unless:
1. The applicant has recorded a plat or plats for the proposed project; or
  2. The applicant has obtained a building permit for any part of the proposed project.
- B. **New application.** If a Certificate of Adequate Public Facilities expires, a new application for a Certificate shall be required for the proposed project. Upon a new application, the facilities existing or planned at the time of the new application shall control.

22.35.020 - **Extensions.**

- A. **When request must be submitted.** A request to extend the time of expiration of a Certificate of Adequate Public Facilities shall be submitted to the Director of Planning and Zoning before the expiration of the original approval.
- B. **Good cause.** The Director of Planning and Zoning shall extend a Certificate of Adequate Public Facilities for up to two five-year periods from the expiration of the original approval or any extended approval upon a showing of good cause if intervening approvals of Certificates of Adequate Public Facilities for other proposed projects taking into consideration the proposed project's impact on facilities, as required by Subsection 22.10.010 of this title.

22.35.030 - Recertification.

- A. **Application after expiration.** An application for a Certificate of Adequate Public Facilities that had been previously approved but had expired shall be submitted to the Director of Planning and Zoning.
- B. **Updates.** The application shall be based upon updated materials and analyses of all applicable facilities and standards under this title.
- C. **Evaluation of development or remaining development.** The materials and analyses shall include an evaluation of the development or remaining development scheduled to be completed as part of the proposed project as compared to any infrastructure that has already been provided for the project.
- D. **Mitigation.** If the materials and analyses indicate that one or more facilities will not be adequate for the proposed project, the applicant may proceed in accordance with the mitigation requirements of this title.

**Chapter 22.40 - APPEALS**

22.40.010 - Appeals.

Any appeal from the decision of the Director of Planning and Zoning to approve or deny an application for a Certificate of Adequate Public Facilities shall be made to the Board of Appeals in conformance with Chapter 21.30 in the Planning and Zoning title of the City Code.

22.40.020 - Pending appeal.

An appeal stays all proceedings in furtherance of the action appealed.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL** that this ordinance shall take effect upon passage.