

COUNTY ORDINANCE NO. 11-22

A BILL ENTITLED

AN ACT CONCERNING Revisions to the Adequate Public Facilities Ordinance, Chapter 28 of the Code of Public Local Laws of Queen Anne’s County, Maryland.

FOR THE PURPOSE of revising and updating the Adequate Public Facilities Ordinance of Queen Anne’s County; deleting obsolete references therein; clarifying the definition of “Development Proposal”; requiring a determination of adequacy of schools for residential developments of 20 or more new lots or units; providing for concurrent submittal and review of APF applications and development applications at the option and risk of the developer; revising the level of service standards for schools and for transportation facilities; and generally revising and updating Chapter 28 of the Code of Public Local Laws of Queen Anne’s County.

BY AMENDING Sections 28-2, 28-3, 28-4, 28-5, 28-7 and 28-8 of the Code of Public Local Laws.

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE’S COUNTY, MARYLAND that Sections 28-2, 28-3, 28-4, 28-5, 28-7 and 28-8 of the Code of Public Local Laws be amended to read as follows:

§ 28-2. Purpose and intent; findings.

A. The purpose and intent of this chapter is:

- (1) To ensure that public facilities needed to support new development meet the level of service standards established herein.**
- (2) To ensure that capital improvements programs are maintained to accommodate reasonable growth and development based on the County's ability to provide adequate public facilities to serve new development.**
- (3) To ensure that no development proposal is approved that would cause a reduction in the levels of service for any public facilities below the level of service standards established in this chapter, unless mitigation measures are approved.**
- (4) To ensure that adequate public facilities needed to support new development are available to address the impacts of such development, as defined by this chapter.**
- (5) To establish uniform procedures for the review of APF applications subject to the standards and requirements of this chapter.**

- (6) To discourage urban sprawl and the inefficient development of land in Queen Anne's County.
- (7) To encourage development in designated growth areas where public facilities exist or are planned.
- ~~(8) To implement the 2002 Comprehensive Plan, including the capital facilities (Element 5) and fiscal health (Element 6) policies and strategies.~~
- ~~(9) To implement Land Use Issue 2 of the Comprehensive Plan that calls for the "coordination of growth area development with public infrastructure;" and the Plan's directive to "tie subdivision and site plan approvals to adequate public facilities standards" (pp. 24 and 25, Vol. 2, 2002 Comprehensive Plan).~~
- (10) (8) To ensure that all applicable legal standards and criteria are incorporated in these procedures and requirements.
- (14) (9) To ensure that proposed development will not adversely affect the public health, safety, and welfare of existing and future residents of Queen Anne's County.

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§ 28-3. Definitions.

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COMPREHENSIVE PLAN

~~The Queen Anne's County Comprehensive Plan, adopted by the County Commissioners on May 21, 2002, as amended, and which is hereby incorporated by this reference.~~

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DEVELOPMENT PROPOSAL – Either of the following:

- ~~A. A preliminary plat, multifamily site plan application, or nonresidential subdivision which proposes six or more new units or lots; or~~
- ~~B. A site plan application, which proposes the creation of 10,000 square feet or more of new enclosed floor area to be dedicated to nonresidential uses; or~~
- ~~C. A preliminary plat or a nonresidential or multifamily site plan application, which will generate 25 or more peak hour trips.~~

Any preliminary subdivision application and any site plan application, including residential, nonresidential and multi-family site plan applications.

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§ 28-4. Applicability.

The provisions of this chapter shall apply to any development proposal submitted in the unincorporated area of the County, as follows:

A. Residential development. A determination of adequacy of water, sewer, schools and transportation facilities is required for any preliminary plat or multifamily site plan application which proposes 20 or more new lots or units. ~~A determination of adequacy of schools is required for any preliminary plan or multifamily site plan application which proposes six or more new lots or units.~~

B. Mixed use and nonresidential development.

(1) A determination of adequacy of water and sewer facilities is required for nonresidential site plan applications that ~~propose the creation of 10,000 square feet or more of new enclosed floor area to be dedicated to nonresidential use~~ generate average water and wastewater demands in excess of 5,000 gallons per day.

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~~F. Minimal use of development proposals. A determination of adequacy is not required for nonresidential buildings or uses designed for average water and wastewater demands that do not exceed 250 gallons per day. Development approvals issued pursuant to this exception shall include a condition that approval will be revoked if average demands exceed 250 GPD.~~

G. F. ...

H. G. ...

§ 28-5. Application and review procedure.

A. When required. Subject to the requirements of this section, a complete APF application ~~must~~ may be submitted and approved prior to the submission and review of a development application for a development proposal or may be submitted and reviewed concurrently with the development application at the option and risk of the developer. No development proposal will be finally approved ~~submitted for consideration for approval~~ as provided in Chapter 18, unless a determination of adequacy has been made by the APF Technical Committee or the Planning Director has determined that the development proposal otherwise has complied with or is exempt from the terms of this chapter.

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- C. ~~Completeness review. Within 15 days of its receipt. The Planning Director shall determine whether the APF application is complete and complies with the submission requirements set forth in this section. If the APF application is complete and the submission requirements have been met, the Planning Director will forward the APF application to the members of the APF Technical Committee for review. At any time during review of an APF application, the Planning Director or the APF Technical Committee may require submission of additional or supplemental information if necessary to make a determination of adequacy with respect to any public facility.~~
- D. **Determination of adequacy and allocation of capacity. Within 45 30 days of the Planning Director's determination that an APF application, or a revised application or mitigation plan, is complete, the APF Technical Committee will make one of the following determinations with respect to each applicable public facility:**
- E. **Duration and effect of a determination of adequacy.**
 - (1) **A determination of adequacy and the issuance of an APF allocation shall be deemed to indicate that:**
 - ...
 - (b) **The APF allocation will remain in effect, if the following conditions are met:**
 - [1] **For residential and nonresidential subdivision applicants:**
 - [a] **An application for plat approval is submitted within ~~90 days~~ 1 year of the determination of adequacy.**

§ 28-7 Adequate standards by public facility.

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C. School system.

- (1) **Determination of adequacy. A determination of adequacy with regard to public schools shall be based on the following standards:**
 - (a) **School service areas. Available capacity will be calculated, in accordance with § 28-6, based on the capacity of the school service area, for each school level, in which a proposed development is**

located; except that, available capacity may be found based on the capacity of an adjacent school service area only upon a written determination by the Board of Education that the adjacent school service area will accommodate the impacts of the proposed development through redistricting or other operational adjustments.

- (b) Level of service standard. The minimum level of service standard for schools shall be ~~100%~~ 120% of state-rated capacity for each level of school and shall be measured by school service area.

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D. Transportation facilities.

(1) Determination of adequacy.

- (a) A determination of adequacy with regard to transportation facilities shall be issued if:

- [1] In designated growth areas. The projected level of service, after buildout of the proposed development, for intersections affected by the proposed development, is ~~C~~ D or above for peak hours. ~~provided, however, that a~~ Any projected level of service ~~D~~ below D for peak hours shall be considered adequate only if the applicant submits and the Board of County Commissioners approves a mitigation plan as provided herein.

- [2] Outside designated growth areas. The projected level of service, after buildout of the proposed development for any intersections affected by the proposed development, is ~~B~~ C for peak hours. Any projected level of service below C for peak hours shall be considered adequate only if the applicant submits and the Board approves a mitigation plan as provided herein.

- (2) Mitigation. In the event that the APF Technical Committee determines that transportation capacity exceeds the above level of service standards, an applicant may propose a mitigation plan that will provide advanced facilities sufficient to offset the impacts of the proposed development on the transportation capital facilities addressed above. However, advanced facilities proposed pursuant to a mitigation plan must comply with the following:

- (a) The advanced facility will result in an overall improvement

to either road capacity, or level of service or safety in the vicinity of the proposed development;

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§ 28-8 Capital Improvements Program

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B. Requirements for CIP implementation. The CIP contains:

- (1) A schedule of ~~year by year~~ capital improvements that indicates the manner in which the County or other applicable agency will reduce existing deficiencies, remain abreast of replacement, and meet future demand.**

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SECTION II

BE IT FURTHER ENACTED that this Act shall take effect on the forty-sixth (46th) day following its enactment.

INTRODUCED BY: Commissioner Dumenil

DATE: September 27, 2011

PUBLIC HEARING HELD: October 25, 2011 @6:25 p.m.

VOTE: 3 Yea 2 Nay Commissioners Dunmyer and Simmons opposed

DATE OF ADOPTION: December 13, 2011

EFFECTIVE DATE: January 28, 2012