

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

**1997 Legislative Session**

Bill No. \_\_\_\_\_ CB-3-1997

Chapter No. \_\_\_\_\_ 64

Proposed and Presented by \_\_\_\_\_ Council Members Bailey and Estepp

Introduced by \_\_\_\_\_ Council Members Bailey, Estepp, Wilson, Russell, Scott and Gourdine

Co-Sponsors

Date of Introduction \_\_\_\_\_ May 13, 1997

**SUBDIVISION BILL**

AN ACT concerning

Adequate School Facilities

For the purpose of establishing adequate school facilities tests for schools at the time of preliminary plat of subdivision and building permit.

BY repealing and reenacting with amendments:

SUBTITLE 24. SUBDIVISIONS.

Section 24-122.01,

The Prince George's County Code

(1995 Edition, 1996 Supplement).

BY adding Section 24-122.02

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 24-122.01 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

**SUBTITLE 24. SUBDIVISIONS.**

**DIVISION 3. REQUIREMENTS: PLANNING, DESIGN, AND PUBLIC FACILITIES.**

**Sec. 24-122.01. Adequacy of public facilities.**

(a) The Planning Board may not approve a subdivision plat if it finds that adequate public facilities, other than school facilities, do not exist or are not programmed for the area within which the proposed subdivision is located, as defined in the "Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities," "Guidelines for the Analysis

of Development Impact on Police Facilities" [and], "Guidelines for the Analysis of the Traffic Impact of Development Proposals."

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**Section 24-122.02. School Facilities Tests.**

(a) At the time of a preliminary plat of subdivision, the Planning Board shall apply an initial adequacy of school facilities test in accordance with Subsections (1), (2), or (3) below:

(1) The number of students generated by the proposed subdivision at each stage of the proposed subdivision will not exceed one hundred five percent (105%) of the rated capacity of the affected elementary, middle, and high schools, as determined by the Planning Board pursuant to the guidelines provided in (A) through (C), below.

(A) The number of elementary, middle, and high school students generated by the proposed subdivision shall be determined in accordance with the pupil yield factors for each dwelling unit type as determined by the Planning Board upon historical information provided by the Board of Education.

(B) Based upon the advice of the Board of Education, the elementary, middle, and high schools serving the property at the time of review of the subdivision shall be determined and shall be considered the "affected" schools.

(C) The projected five-year enrollment as determined by the Planning Board in cooperation with the Board of Education and any other County or State agency deemed appropriate, for each affected school shall be added to the number of students generated by the proposed subdivision, as determined in subsection (A) above plus the number of students generated by approved preliminary plats since the most recent annual enrollment projections.

(2) The total projected number of students for each affected school, as determined in subsection C, above, shall be compared to the rated capacity of each affected school and an adequate public facilities fee shall be calculated by multiplying the number of students generated by the proposed subdivision above the one hundred five percent (105%)

rated capacity in accordance with the following schedule:

- (A) \$9,000 per elementary school student
- (B) \$12,000 per middle school student
- (C) \$10,000 per high school student

Such fee is to be paid at time of issuance of a building permit, unless the application is subject to the provisions of subsection (a)(4) herein.

(3) An addition to the affected school or a new school to serve the students generated by the proposed subdivision has been funded by the State in an adopted State of Maryland annual budget bill in accordance with Article III, Section 52, of the Maryland Constitution, and the projected enrollment of the new or expanded school will not exceed one hundred five percent (105%) of its rated capacity.

(4) If the students to be generated as determined in subsections (a)(1) and (2) above exceed one hundred thirty percent (130%) at any affected school, no permits may be issued for the development until:

(A) Capacity exists below one hundred thirty percent (130%) in all affected schools; or

(B) Four (4) years have elapsed since the time of the approval of the preliminary plan of subdivision.

(5) Whenever an adequate school facility fee is charged, it shall be offset by the full amount of the school facilities surcharge imposed on the same property.

(b) At the time building permit applications are submitted for projects where the preliminary plat of subdivision approval was before January 1, 1991, the Planning Board shall apply a final adequate school facilities test in accordance with Subsections (1), (2) and (3) below.

(1) If the number of students measured under Subsection (a)(1) exceeds one hundred five percent (105%) of the rated capacity of any affected school(s) using the most recent actual enrollment data, instead of projected enrollment data, the applicant may pay an adequate school facilities fee equal to the cost of a permanent seat for each student generated

by the subdivision above the one hundred five percent (105%) rated capacity.

(2) The adequate school facilities fee shall be determined by multiplying the number of students generated by the proposed subdivision above the one hundred five percent (105%) rated capacity in accordance with the following schedule:

(A) \$9,000 per elementary school student

(B) \$12,000 per middle school student

(C) \$10,000 per high school student

(3) If the students to be generated as determined in subsections (b)(1) and (2) above exceed one hundred thirty percent (130%) at any affected school, no permits may be issued for the development until:

(A) Capacity exists below one hundred thirty percent (130%) in all affected schools; or

(B) Three (3) years has elapsed since the time of the application for a building permit.

(4) Whenever an adequate school facility fee is charged it shall be offset by the full amount of the school facilities surcharge imposed on the same property.

(c) Notwithstanding the above requirements, building permits may be approved without the payment of an adequate school facilities fee for the following:

(1) A subdivision which is a redevelopment project that replaces existing dwelling units;

(2) A subdivision for less than thirty-six (36) dwelling units which will be developed in a Revitalization Tax District as provided in Subtitle 10 of this Code where the proposed subdivision is not included in a larger Comprehensive Design or Mixed Use Zone development; or

(3) A subdivision for less than thirty-six (36) dwelling units, which will not be served by public water and sewerage systems, is not included in a larger Comprehensive Design or Mixed Use Zone development, and for which the applicant/owner, or their predecessors in interest and/or title, did not own any property adjacent to the proposed

subdivision as of May 31, 1997. For purposes of this Section, land is considered adjacent if the property lines are contiguous at any point, are separated only by a public or private street, road, highway, utility right-of-way, or other public or private rights-of-way at any point, or are separated only by other land of the applicant/owner, or their predecessors in interest and/or title which is not subject to this Section at the time the applicant submits a preliminary plat of subdivision for approval.

(4) A subdivision for elderly housing operated in accordance with State and Federal Fair Housing law.

SECTION 2. BE IT FURTHER ENACTED that the Superintendent of the Board of Education is requested to submit with the Board's Annual Capital Improvement Program ("CIP") a Neighborhood School Analysis based on a cluster plan which analyzes the projected enrollment and capacity assuming all CIP projects are constructed. The Neighborhood School Analysis should be submitted no later than December 1 of each year.

SECTION 3. BE IT FURTHER ENACTED that, prior to the effective date of this Act, the Office of Management and Budget, the Department of Environmental Resources and the Planning Board, in consultation with the Superintendent of Schools, shall prepare and submit to the Council, for its amendment and/or approval, regulations for the implementation of this Act. The regulations shall include methodology for determining pupil yield factors, projected enrollment, affected schools, and any other information necessary to the application and implementation of this Act;

SECTION 4. BE IT FURTHER ENACTED that this Act shall not apply to any property located within an infrastructure finance district approved prior to the effective date of this Act; or to any project for which a Detailed Site Plan or Specific Design Plan has been filed and accepted as of November 1, 1996; or for a subdivision for which grading has begun for any phase pursuant to a validly issued grading permit on or before the effective date of this Act.

SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect thirty (30) calendar days from the date it becomes law.

Adopted this 18th day of November, 1997.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY:  
Dorothy F. Bailey  
Chair

ATTEST:

Joyce T. Sweeney  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY:  
Wayne K. Curry  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.