

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2003 Legislative Session**

Bill No. CB-36-2003

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

Proposed and Presented by Council Member Hendershot

Introduced by \_\_\_\_\_

Co-Sponsors \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**SUBDIVISION BILL**

1 AN ACT concerning

2 Adequate School Facilities

3 For the purpose of amending the provisions for determining school facilities adequacy at the time  
 4 of preliminary plat of subdivision.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 24. SUBDIVISIONS.

7 Section 24-122.02,

8 The Prince George's County Code

9 (1999 Edition, 2002 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
 11 Maryland, that Section 24-122.02 of the Prince George's County Code be and the same is hereby  
 12 repealed and reenacted with the following amendments:

**SUBTITLE 24. SUBDIVISIONS.**

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

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

16 (a) At the time of a preliminary plat of subdivision, the Planning Board shall apply an  
 17 adequacy of school facilities test in accordance with this Subsection.

18 (1) The test shall be applied to a proposed subdivision as it affects school clusters,  
 19 which are groupings of elementary, middle, and high schools which would be impacted by the  
 20 subdivision.

1           (2) A subdivision meets the test, unless otherwise provided below, if the number of  
2 students generated by the proposed subdivision at each stage will not exceed one hundred five  
3 percent (105%) of the state rated capacity, as adjusted by the School Regulations, of the affected  
4 elementary, middle, and high school clusters, as determined by the Planning Board.

5           (3) The number of elementary, middle, and high school students generated by the  
6 proposed subdivision shall be determined in accordance with the pupil yield factors, as defined  
7 in Section 24-101(b), for each dwelling unit type as determined by the Planning Board from  
8 historical information provided by the Superintendent of the Prince George's County Public  
9 Schools.

10           (4) The Planning Board shall determine:

11                   (A) The school cluster or clusters impacted by the subdivision.

12                   (B) The actual enrollment, which is the number of elementary, middle, and high  
13 school students, as reported by the Superintendent of the Prince George's County Public Schools  
14 as of September 30 of the prior year, and as calculated by the Planning Board and effective in  
15 January of each year for use in that calendar year.

16                   (C) The completion enrollment, which is the total number of elementary, middle,  
17 and high school students to be generated by the estimated number of residential completions, for  
18 each school cluster.

19                           (i) Residential completions are estimated from the total of all substantially  
20 completed dwelling units added to the County's assessable tax base in the two (2) previous  
21 calendar years.

22                           (ii) In determining completion enrollment, the estimated number of  
23 residential completions in a given school cluster will not exceed the number of dwelling units  
24 shown on:

25                                   (aa) An approved preliminary plat of subdivision with no waiting  
26 period, or with a waiting period less than twenty-four (24) months as of September 30 of each  
27 calendar year; and

28                                   (bb) All recorded plats not subject to an adequate public facilities test  
29 for schools at time of building permit issuance.

1 (D) The subdivision enrollment, which is the anticipated number of elementary,  
 2 middle, and high school students to be generated by all dwelling units shown on the proposed  
 3 preliminary plat of subdivision, multiplied by the pupil yield factor.

4 (E) The cumulative enrollment, which is the total of all subdivision enrollments  
 5 resulting from approved preliminary plats of subdivision in each school cluster for the calendar  
 6 year in which an adequate public facilities test is being applied.

7 (5) The Planning Board shall determine the subdivision's cluster enrollment by  
 8 adding: the actual number of students in the cluster as of September 30; the number of students  
 9 anticipated from residential completions in the cluster; the number anticipated from the  
 10 subdivision; and the number anticipated from subdivisions already approved in the cluster within  
 11 the calendar year. The Board shall then determine the percent capacity by dividing the cluster  
 12 enrollment by the state rated capacity (adjusted by the School Regulations) of schools in the  
 13 cluster.

14 [(6) If the percent capacity for a stage of the subdivision is greater than one hundred  
 15 five percent (105%) and there is a funded school, as defined in Section 24-101(b), the  
 16 preliminary plat may then be approved, and building permits may be issued:

17 (A) Three (3) years after the date of approval of the preliminary plat of  
 18 subdivision;

19 (B) At any time that the percent capacity, as adjusted pursuant to School  
 20 Regulations, is less than or equal to one hundred five percent (105%); or

21 (C) Pursuant to the terms of an executed school facilities agreement whereby the  
 22 subdivision applicant, to avoid a waiting period, agrees with the County Council and County  
 23 Executive to construct or secure funding for construction of all or part of a school, to advance  
 24 school capacity.

25 (i) An applicant with a project which is not a Development of Significant  
 26 Impact, as described below, may enter into a school facilities agreement to pay a specific amount  
 27 of fees, comprising the school facilities surcharge and a per-dwelling unit fee.

28 (ii) The fees per dwelling unit are as follows: \$2,150 for an elementary  
 29 school; \$840 for a middle school; and \$1,950 for a high school.

(iii) An applicant whose project is not a Development of Significant Impact may join with one or more applicants in the same clusters to use the agreement procedures recited below, if their combined projects have six hundred (600) or more dwelling units.

(iv) If the applicant under (i) does not agree to pay the fees provided for in (ii), it may, after negotiation and County Council and County Executive approval, pay for or provide for facilities which are substantially equivalent in value to the fees which would otherwise be paid.

(v) The fees required in (ii) may be paid in phases for multifamily residential dwellings with more than 20 units. The phased payments shall be: 25% on issuance of the first building permit, and the remainder 24 months later.

(7) If the percent capacity for a stage of the subdivision is greater than one hundred five percent (105%) and there is no funded school, the preliminary plat may then be approved, and building permits may be issued:

(A) Six (6) years after the date of approval of the preliminary plat of subdivision;

(B) At any time that the percent capacity, as adjusted pursuant to School Regulations, is less than or equal to one hundred five percent (105%); or

(C) Pursuant to the terms of an executed school facilities agreement whereby the subdivision applicant, to avoid a waiting period, agrees with the County Council and County Executive to construct or secure funding for construction of all or part of a school, to advance school capacity.

(i) An applicant with a project which is not a Development of Significant Impact, as described below, may enter into a school facilities agreement to pay a specific amount of fees, comprising the school facilities surcharge and a per-dwelling unit fee.

(ii) The fees per dwelling unit are as follows: \$2,150 for an elementary school; \$840 for a middle school; and \$1,950 for a high school.

(iii) An applicant whose project is not a Development of Significant Impact may join with one or more applicants in the same clusters to use the agreement procedures recited below, if their combined projects have six hundred (600) or more dwelling units.

(iv) If the applicant under (i) does not agree to pay the fees provided for in (ii), it may, after negotiation and County Council and County Executive approval, pay for or

1 provide for facilities which are substantially equivalent in value to the fees which would  
2 otherwise be paid.

3 (v) The fees required in (ii) may be paid in phases for multifamily  
4 residential dwellings with more than 20 units. The phased payments shall be: 25% on issuance  
5 of the first building permit, and the remainder 24 months later.

6 (8) If during the six-year period in (a)(7)(A) a new school becomes funded in a  
7 cluster which was found to be over 105% of capacity, then building permits may be issued three  
8 (3) years after the date the school becomes a funded school, or six (6) years after the date of  
9 approval of the preliminary plat, whichever is earlier.

10 (9) If the percent capacity for the subdivision is greater than one hundred five percent  
11 (105%) and there is one or more funded schools, and if the subdivision is or is a part of a  
12 Development of Significant Impact, which totals six hundred (600) or more dwelling units, then  
13 building permits may be issued:

14 (A) Three (3) years after the date of approval of the preliminary plat of  
15 subdivision;

16 (B) At any time that the percent capacity, as adjusted pursuant to School  
17 Regulations, is less than or equal to one hundred five percent (105%); or

18 (C) Pursuant to the terms of an executed school facilities agreement whereby the  
19 subdivision applicant agrees with the County Council and County Executive to construct or  
20 secure funding for construction of all or part of a school, to advance school capacity.

21 (10) If the percent capacity for the subdivision is greater than one hundred five percent  
22 (105%) and there is no funded school, and if the subdivision is or is a part of a Development of  
23 Significant Impact, then building permits may be issued:

24 (A) Six (6) years after the date of approval of the preliminary plat of subdivision;

25 (B) At any time that the percent capacity, as adjusted pursuant to School  
26 Regulations, is less than or equal to one hundred five percent (105%); or

27 (C) Pursuant to the terms of an executed school facilities agreement whereby the  
28 subdivision applicant agrees with the County Council and County Executive to construct or  
29 secure funding for construction of all or part of a school, to advance school capacity.

1 (11) The Planning Board shall accept, for the purposes of adequate school facilities, an  
 2 executed school facilities agreement which includes a commitment to construct all or part of a  
 3 school, or to secure funding for all or part of a school, in a schedule of fee payments.

4 (12) A school facilities agreement approved by the applicant and the County Council  
 5 and County Executive may provide for funding or construction of all or part of a school,  
 6 construction and sale or lease of a school to County Council and County Executive, or any  
 7 substantially equivalent arrangement.]

8 (b) The following shall be exempt from the preliminary plat of subdivision test in  
 9 Subsection (a):

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

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

14 (3) A subdivision containing no more than three (3) lots on less than five (5) gross  
 15 acres of land and for which the lots, except for one to be retained by grantor, are to be conveyed  
 16 to a son or daughter or lineal descendant of the grantor.

17 (4) A subdivision which is located in the Developed Tier, as described in the  
 18 County's adopted Biennial Growth Policy Plan.

19 (5) A subdivision for fewer than thirty-six (36) dwelling units, which will not be  
 20 served by public water and sewerage systems, is not included in a large Comprehensive Design  
 21 or Mixed-Use Zone development, and for which the applicant/owner, or predecessors in interest  
 22 and/or title, did not own any property adjacent to the proposed subdivision as of May 31, 1997.  
 23 For purposes of this Subsection:

24 (A) A subdivision means all land originally included in one preliminary plat  
 25 application. Subsequent re-subdivision for the purpose of creating additional lots is permitted,  
 26 provided that in no case shall an exemption be applied to more than a total of thirty-five (35)  
 27 lots; and

28 (B) Land is considered adjacent if the property lines:

29 (i) Are contiguous at any point;

30 (ii) Are separated only by a public or private street, road, highway, utility  
 31 right-of-way, or other public or private right-of-way at any point; or

1 (iii) Are separated only by other land of the applicant/owner or their  
2 predecessors in interest and/or title which is not subject to this Section at the time the applicant  
3 submits a preliminary plat of subdivision for approval.

4 SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect thirty (30)  
5 calendar days after it becomes law.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Peter A. Shapiro  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Jack B. Johnson  
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.