

FINAL

March 19, 2018  
May 7 and 21, 2018

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2018, Legislative Day No. 4

Bill No. 15-18

Introduced by Mr. Grasso

By the County Council, February 20, 2018

---

Introduced and first read on February 20, 2018  
Public Hearing set for and held on March 19, 2018  
Public Hearing on AMENDED bill set for and held on April 2, 2018  
Bill AMENDED on May 7, 2018  
Public Hearing on SECOND AMENDED bill set for and held on May 21, 2018  
Bill AMENDED and VOTED on May 21, 2018  
Bill Expires May 26, 2018

By Order: JoAnne Gray, Administrative Officer

---

A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development – Adequate Public Facilities  
2 – Public Schools  
3

4 FOR the purpose of modifying the provisions for an exemption from requirements for  
5 adequate public facilities for schools; amending the standards for determining adequate  
6 school facilities to require consideration of projected enrollment from proposed  
7 development; requiring the school utilization chart process be updated to include data  
8 regarding open seats based on the ~~most recent educational facilities master plan~~;  
9 ~~revising the standards for school mitigation agreements to include projected enrollment~~  
10 ~~from proposed development~~ proposed reductions in available school capacity due to  
11 new proposed developments; providing for the termination of this Ordinance; making  
12 certain technical and stylistic changes; providing for a delayed effective date; and  
13 generally relating to subdivision and development.  
14

15 BY repealing and reenacting, with amendments: §§ ~~17-5-501; 17-5-502; and 17-5-901(a)~~  
16 17-5-207; 17-5-501; and 17-5-502  
17 Anne Arundel County Code (2005, as amended)(as amended by Bill No. 92-17)

---

EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Captions and taglines in **bold** in this bill are catchwords and are not law.  
Underlining indicates amendments to bill.  
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
2 That Section(s) of the Anne Arundel County Code (2005, as amended)( as amended by Bill  
3 No. 92-17) read as follows:

4  
5 **ARTICLE 17. SUBDIVISION AND DEVELOPMENT**

6  
7 **TITLE 5. ADEQUATE PUBLIC FACILITIES**

8  
9 **17-5-207. Exemption.**

10  
11 (a) Exemption. A developer may obtain an exemption from the requirements for  
12 adequate public facilities for schools for no more than [three] FIVE lots in a subdivision for  
13 single family detached dwellings or for no more than [three] FIVE dwelling units shown on  
14 a site development plan if [the following requirements are met:

15  
16 (1) for a subdivision or site development plan application received before April 6,  
17 2008, a developer shall sign and record an agreement as required by subsection (b); or

18  
19 (2) for a subdivision or site development plan application received on or after April  
20 6, 2008, a] THE developer [shall provide] PROVIDES evidence of ownership of the property  
21 for a minimum of [five] THREE years as of the date of application and [shall sign and record]  
22 SIGNS AND RECORDS an agreement as required by subsection (b).

23  
24 (b) Agreement. All applications for subdivision or residential site development plans  
25 seeking exemption under this section shall execute an agreement with the County in which  
26 the developer acknowledges the exemption shall be limited to [three] FIVE lots or dwelling  
27 units, including any existing residences, of the pending application and that further  
28 subdivision or development of the site, if permitted, will be subject to the adequate public  
29 facilities requirement for schools. The agreement shall be:

30  
31 (1) in the form and contain the language required by the Office of Law;

32  
33 (2) recorded among the land records of Anne Arundel County, run with the land,  
34 and bind all future owners of the site that is the subject of the application and all future  
35 owners of the lots created by a subdivision approved under this exemption;

36  
37 (3) executed and recorded before approval by the Planning and Zoning Officer of  
38 the proposed record plat for a subdivision, the application for a grading or building permit  
39 in connection with a site development plan, or the approval of a site development plan for  
40 development that does not require a permit, as applicable; and

41  
42 (4) noted on the proposed record plat or site development plan, with the note  
43 including a reference to the book and page number of the location in the land records.

44  
45 **17-5-501. Standards; report to the Board of Education.**

46  
47 (a) **Standards.** A development passes the test for adequate school facilities if {:

(1) each public elementary, middle, and high school is designated as “open” on the school utilization chart described in § 17-5-502 for the geographical attendance areas for the development in the third school year after the school year in which the determination is being made[;] ~~AND AT LEAST ONE OF THE FOLLOWING OCCURS:~~

~~(1) THE OFFICE OF PLANNING AND ZONING HAS DETERMINED THAT THE STUDENT YIELD FROM THE PROPOSED DEVELOPMENT IS EQUAL TO OR LESS THAN THE AVAILABLE CAPACITY OF EACH PUBLIC ELEMENTARY, MIDDLE, AND HIGH SCHOOL IN THE GEOGRAPHICAL ATTENDANCE AREAS FOR THE DEVELOPMENT IN THE THIRD SCHOOL YEAR AFTER THE SCHOOL YEAR IN WHICH THE DETERMINATION IS BEING MADE, BASED ON THE STUDENT GENERATION FACTORS AND PROJECTED ENROLLMENT DATA IN THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN PREPARED BY THE BOARD OF EDUCATION, AND THE NUMBER OF STUDENTS PROJECTED TO BE GENERATED BY THE DEVELOPMENT IN THE THIRD SCHOOL YEAR AFTER THE SCHOOL YEAR IN WHICH THE DETERMINATION IS BEING MADE BASED ON THE STUDENT GENERATION FACTORS FOR THE DEVELOPMENT DOES NOT EXCEED 85% OF THE AVAILABLE CAPACITY OF EACH OPEN SCHOOL AS OF THE DATE OF THE LAST APPROVED OR UPDATED SCHOOL CHART, AS DETERMINED BY THE OFFICE OF PLANNING AND ZONING;~~

~~(2) [the] THE Office of Planning and Zoning has received written notice via certified mail from the Board of Education that the requirements for applicable future capacity, as described in [§ 17-5-502(c)(2)(i)] § 17-5-502(D)(2)(I) and (ii), have been satisfied, without formal adoption of a school utilization chart[;], ~~AND THE STUDENT YIELD FROM THE PROPOSED DEVELOPMENT IS EQUAL TO OR LESS THAN THE AVAILABLE CAPACITY OF EACH PUBLIC ELEMENTARY, MIDDLE, AND HIGH SCHOOL IN THE GEOGRAPHICAL ATTENDANCE AREAS FOR THE DEVELOPMENT IN THE THIRD SCHOOL YEAR AFTER THE SCHOOL YEAR IN WHICH THE DETERMINATION IS BEING MADE, BASED ON THE STUDENT GENERATION FACTORS AND PROJECTED ENROLLMENT DATA IN THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN PREPARED BY THE BOARD OF EDUCATION, AND WITH THE APPLICABLE FUTURE CAPACITY THE DEVELOPMENT WILL SATISFY THE REQUIREMENTS OF SUBSECTION (A);~~~~

~~(3) [the] THE developer has executed an approved School Capacity Mitigation Agreement under the provisions of § [17-5-901] 17-5-901(G)(4); or~~

(4) the Planning and Zoning Officer and the Board of Education [approves] APPROVE a donation of land for future construction of school facilities as provided in § 17-5-901(g)(2).

**(b) Report to Board of Education.** ~~If THE DEVELOPMENT IS approved, the Office of Planning and Zoning shall specify the number and type of dwelling units that are approved FOR THE DEVELOPMENT AND THE STUDENT YIELD FOR THE UNITS and report the number [and type] to the Board of Education. THE OFFICE OF PLANNING AND ZONING SHALL DEDUCT THE STUDENT YIELD FROM THE APPROVED DWELLING UNITS SHALL BE DEDUCTED FROM THE AVAILABLE CAPACITY OF EACH SCHOOL IN THAT FEEDER DISTRICT PRIOR TO TESTING ANY SUBSEQUENT DEVELOPMENT IN THAT FEEDER SYSTEM FOR ADEQUATE SCHOOL FACILITIES. DEDUCTIONS FROM THE AVAILABLE CAPACITY FOR EACH FEEDER SYSTEM SHALL BE DETERMINED BY THE DATE OF APPROVAL PURSUANT TO §17-5-502(B)(1). THE OFFICE OF PLANNING AND ZONING SHALL NOTIFY THE BOARD OF EDUCATION OF ANY CHANGE TO THE STUDENT YIELD OF THE DEVELOPMENT AFTER APPROVAL OF FINAL PLAN OR IF THE SUBDIVISION IS VOIDED FOR FAILURE TO COMPLETE THE SUBDIVISION PROCESS PURSUANT TO § 17-5-203 OR § 17-5-204.~~



17-5-502. School utilization chart.

(a) **Chart defined.** The Planning and Zoning Officer shall prepare a school utilization chart for approval by ordinance of the County Council. The school utilization chart:

(1) [may not be modified by the Office or be subject to review on any appeal of a decision by the Office under this subtitle after the school utilization chart has been approved as provided in subsection (d);

(2)] shall be revised at least once a year by the County Council upon the annual recommendation of the Planning and Zoning Officer made no later than November 30 each year, and the chart ~~SHALL MAY~~ be revised more often {because of}~~IF~~ significant changes in [enrollments or] capacities ~~RESULT IN A SCHOOL REACHING 95% OR GREATER OF ITS CAPACITY WITHOUT A PLAN FOR MITIGATION UNDER § 17-5-901;~~

(2) SHALL BE UPDATED BY THE PLANNING AND ZONING OFFICER ON MAY 1 AND SEPTEMBER 1 OF EACH YEAR, AND BE EFFECTIVE AS OF THAT DATE, BASED ON PROPOSED REDUCTIONS IN AVAILABLE SCHOOL CAPACITY DUE TO NEW STUDENTS PROPOSED TO BE GENERATED BY NEW DEVELOPMENT APPROVED BY THE OFFICE OF PLANNING AND ZONING SINCE THE LAST SCHOOL UTILIZATION CHART WAS APPROVED OR UPDATED;

(3) shall be based on enrollments projected by the Board of Education and the capacities of schools as determined by the Board of Education IN THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN PREPARED BY THE BOARD OF EDUCATION AND AS REQUIRED under subsections (b) and (c), AS WELL AS NEW STUDENTS PROPOSED TO BE GENERATED BY EACH NEW DEVELOPMENT APPROVED BY THE OFFICE OF PLANNING AND ZONING SINCE THE LAST SCHOOL UTILIZATION CHART WAS APPROVED OR UPDATED; and

(4) shall determine for each public elementary, middle, and high school whether, TAKING INTO ACCOUNT ALL ENROLLMENT AND STUDENT GENERATION DATA PROVIDED BY THE BOARD OF EDUCATION, INCLUDING NEW STUDENTS PROJECTED TO BE GENERATED BY NEW DEVELOPMENT APPROVED SINCE THE LAST SCHOOL UTILIZATION CHART WAS APPROVED OR UPDATED, the school enrollment: [is at or less than 95% of the State-rated capacity during the third school year after the school year in which the most recent revision of the school utilization chart is adopted, and designate for that year each public elementary, middle, and high school in the county as either “open”, if the school enrollment is at or less than 95% of the State-rated capacity, or “closed”, if the school enrollment is over 95% of the State-rated capacity], ~~AND STATE THE AVAILABLE ENROLLMENT CAPACITY FOR EACH SCHOOL LISTED AS “OPEN” PURSUANT TO THE MOST RECENT REPORT TO THE BOARD OF EDUCATION UNDER § 17-5-501(B)[.]~~

(I) FOR EACH ELEMENTARY AND MIDDLE SCHOOL IS AT OR LESS THAN 95% OF THE STATE-RATED CAPACITY DURING THE THIRD SCHOOL YEAR AFTER THE SCHOOL YEAR IN WHICH THE MOST RECENT REVISION OF THE SCHOOL UTILIZATION CHART IS ADOPTED, AND DESIGNATE FOR THAT YEAR EACH PUBLIC ELEMENTARY AND MIDDLE SCHOOL IN THE COUNTY AS EITHER “OPEN”, IF THE SCHOOL ENROLLMENT IS LESS THAN 95% OF THE STATE-RATED CAPACITY, OR “CLOSED”, IF THE SCHOOL ENROLLMENT IS AT OR OVER 95% OF THE STATE-RATED CAPACITY; AND

(II) FOR EACH HIGH SCHOOL IS LESS THAN 100% OF THE STATE-RATED CAPACITY DURING THE THIRD SCHOOL YEAR AFTER THE SCHOOL YEAR IN WHICH THE MOST RECENT REVISION OF THE SCHOOL UTILIZATION CHART IS ADOPTED AND DESIGNATE FOR THAT YEAR EACH PUBLIC HIGH SCHOOL IN THE COUNTY AS EITHER

1 “OPEN”, IF THE SCHOOL ENROLLMENT IS LESS THAN 100% OF THE STATE-RATED CAPACITY,  
2 OR “CLOSED”, IF THE SCHOOL ENROLLMENT IS AT OR OVER 100% OF THE STATE-RATED  
3 CAPACITY.

4  
5 (B) Updates. AN UPDATE TO THE SCHOOL UTILIZATION CHART BY THE PLANNING AND  
6 ZONING OFFICER MAY NOT CONSTITUTE AN ADMINISTRATIVE OR ADJUDICATORY ORDER  
7 AND MAY NOT BE APPEALED.

8  
9 **[(b)](C) Projected enrollment.** The projected enrollment of a school used in the school  
10 utilization chart SHALL BE BASED UPON THE MOST RECENT EDUCATIONAL FACILITIES  
11 MASTER PLAN PREPARED BY THE BOARD OF EDUCATION AND shall include:

12  
13 (1) any predicted increase in the number of students from new development in the  
14 geographical attendance area of the school; and

15  
16 (2) other students expected by the Board of Education to enroll in the school,  
17 including students assigned to the school for programmatic reasons.

18  
19 **[(c)](D) Capacity.** The capacity of a school used in the school utilization chart SHALL  
20 BE BASED UPON THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN PREPARED  
21 BY THE BOARD OF EDUCATION AND shall:

22  
23 (1) include the existing capacity of the school based on the program requirements  
24 of the Board of Education;

25  
26 (2) include any applicable future capacity if:

27  
28 (i) a contract for construction of the school or an addition to the school  
29 necessary to achieve the future capacity has been awarded; and

30  
31 (ii) the Board of Education estimates that the construction will be completed in  
32 time to be used for the beginning of classes in the school year in which the future capacity  
33 is included in the school utilization chart; and

34  
35 (3) not include capacity based on temporary or relocatable structures.

36  
37 **[(d)](E) Approval.** A school utilization chart and any revisions to the chart shall not  
38 take effect until the County Council by ordinance has approved the chart or the revisions  
39 to the chart, OR THE PLANNING AND ZONING OFFICER HAS APPROVED AN UPDATE TO THE  
40 CHART PURSUANT TO SUBSECTION (A)(2). The ordinance shall establish the effective date  
41 of the chart or revised chart, and the chart or revised chart, OR ANY UPDATE TO THE CHART  
42 APPROVED BY THE PLANNING AND ZONING OFFICER, shall continue in effect until replaced,  
43 [or] revised, OR UPDATED.

44  
45 **17-5-901. Mitigation.**

46  
47 **(a) General requirement.** ~~Except as provided in this section, mitigation consists of the~~  
48 ~~construction or funding of improvements to offsite public facilities by a developer that~~  
49 ~~increase capacity and improve environmental effectiveness or safety of each public facility~~  
50 ~~that is below the minimum standard in the impact area so that the capacity, environmental~~

1 effectiveness or safety of the facility in the scheduled completion year will be equal to or  
2 greater than if the development had not been constructed AND THE STUDENT YIELD FROM  
3 THE PROPOSED DEVELOPMENT THAT IS THE SUBJECT OF THE SCHOOL CAPACITY  
4 MITIGATION AGREEMENT WILL BE EQUAL TO OR LESS THAN THE INCREASED CAPACITY  
5 OF EACH EXPANDED PUBLIC ELEMENTARY, MIDDLE, AND HIGH SCHOOL IN THE  
6 GEOGRAPHICAL ATTENDANCE AREAS, BASED ON THE STUDENT GENERATION FACTORS IN  
7 THE MOST RECENT EDUCATIONAL FACILITIES MASTER PLAN PREPARED BY THE BOARD  
8 OF EDUCATION AND THE ACTUAL EXPANDED CAPACITY OF EACH SUCH SCHOOL. A School  
9 Capacity Mitigation Plan may also include donation of land to the Board of Education for  
10 future school facilities construction. A mitigation plan may include donation of land to the  
11 Board of Education for future school facilities construction pursuant to subsection (g)(2),  
12 physical improvements secured by bond, letter of credit or other security acceptable to the  
13 County, which shall be provided under a public works agreement or grading permit, or an  
14 agreement with the Board of Education to construct school facilities, including a contract  
15 school, or payment of storm drain fees in excess of those required by Title 11, or  
16 contributions to existing capital projects and shall be approved by the Planning and Zoning  
17 Officer. The developer shall submit the most recent tax assessment information for any  
18 land to be donated to the Board of Education, a cost estimate to establish the value of  
19 construction or off-site improvements offered in mitigation, and a cost estimate for  
20 construction and improvements in conformance with County specifications may be  
21 approved by the Planning and Zoning Officer, who may also require a mitigation  
22 agreement to ensure compliance with the requirements of this section. An agreement with  
23 the Board of Education to construct school facilities or for the donation of land for a school  
24 site must comply with applicable State law and be approved by resolution introduced by  
25 the County Executive and adopted by the County Council.

26  
27 SECTION 2. And be it further enacted, That the provisions of this Ordinance shall  
28 remain in effect until January 1, 2020 or until the final adoption of an ordinance that  
29 updates the 2009 Anne Arundel County General Development Plan, whichever comes first,  
30 after which it shall stand repealed and with no further action required by the County  
31 Council, be of no further force and effect.

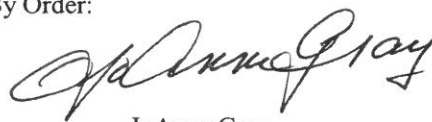
32  
33 SECTION 3. And be it further enacted, That this Ordinance shall take effect August  
34 1, 2018.

35  
36 ~~SECTION 2. 3, 4. And be it further enacted, That this Ordinance shall take effect 45~~  
37 ~~days from the date it becomes law.~~

AMENDMENTS ADOPTED: March 19 and May 7 and 21, 2018

READ AND PASSED this 21<sup>st</sup> day of May, 2018

By Order:



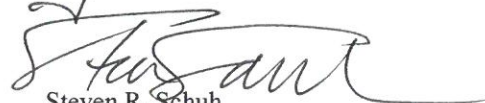
JoAnne Gray  
Administrative Officer

PRESENTED to the County Executive for his approval this 22<sup>nd</sup> day of May, 2018



JoAnne Gray  
Administrative Officer

APPROVED AND ENACTED this 29 day of May, 2018



Steven R. Schuh  
County Executive

EFFECTIVE DATE:

**AUG 1 2018**

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.  
15-18. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES  
OF THE COUNTY COUNCIL.



JoAnne Gray  
Administrative Officer