

FINAL

AMENDED
December 18, 2017
January 2, 2018

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2017, Legislative Day No. 40

Bill No. 92-17

Introduced by Mr. Grasso

By the County Council, November 6, 2017

Introduced and first read on November 6, 2017
Public Hearing set for and held on December 4, 2017
Bill AMENDED on December 18, 2017
Public Hearing on AMENDED bill set for and held on January 2, 2018
Public Hearing on SECOND AMENDED bill set for and held on January 16, 2018
Bill Expires February 9, 2018

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development – Adequate Public Facilities
2 – ~~School Utilization Chart~~ Public Schools

3
4 FOR the purpose of amending the test for additional school capacity by requiring schools
5 with enrollment greater than 95% of the State-Rated Capacity to be listed as closed on
6 the annual school utilization chart; adding the option of donating land to the Board of
7 Education for future construction of school facilities to pass the test for adequate school
8 facilities; providing for the termination of this Ordinance; and generally relating to
9 adequate public facilities.

10
11 BY repealing and reenacting, with amendments: ~~§ 17-5-502(a)(4)~~ §§ 17-5-501(a); 17-5-
12 502(a)(4); and 17-5-901(a) and (g)
13 Anne Arundel County Code (2005, as amended)

14
15 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
16 That Section(s) of the Anne Arundel County Code (2005, as amended) (and as amended
17 by Bill No. 14-17) read as follows:

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.

ARTICLE 17. SUBDIVISION AND DEVELOPMENT

TITLE 5. ADEQUATE PUBLIC FACILITIES

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

(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;

(2) 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) and (ii), have been satisfied, without formal adoption of a school utilization chart; [or]

(3) the developer has executed an approved School Capacity Mitigation Agreement under the provisions of § 17-5-901[.]; OR

(4) THE PLANNING AND ZONING OFFICER AND THE BOARD OF EDUCATION APPROVES A DONATION OF LAND FOR FUTURE CONSTRUCTION OF SCHOOL FACILITIES AS PROVIDED IN § 17-5-901(G)(2).

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:

(4) shall determine for each public elementary, middle, and high school whether the school [has capacity for additional students] 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” [based on], IF THE SCHOOL ENROLLMENT IS OVER 95% OF THE STATE-RATED capacity [for additional students].

17-5-901. Mitigation.

(a) General requirement. Except as provided in this section, mitigation consists of the construction or funding of improvements to offsite public facilities by a developer that increase capacity and improve environmental effectiveness or safety of each public facility that is below the minimum standard in the impact area so that the capacity, environmental effectiveness or safety of the facility in the scheduled completion year will be equal to or greater than if the development had not been constructed. A SCHOOL CAPACITY mitigation plan may also include DONATION OF LAND TO THE BOARD OF EDUCATION FOR FUTURE SCHOOL FACILITIES CONSTRUCTION. A mitigation plan may include DONATION OF LAND TO THE BOARD OF EDUCATION FOR FUTURE SCHOOL FACILITIES CONSTRUCTION

1 PURSUANT TO SUBSECTION (G)(2), physical improvements secured by bond, letter of credit
2 or other security acceptable to the County, which shall be provided under a public works
3 agreement or grading permit, or an agreement with the Board of Education to construct
4 school facilities, including a contract school, or payment of storm drain fees in excess of
5 those required by Title 11, or contributions to existing capital projects and shall be
6 approved by the Planning and Zoning Officer. The developer shall submit THE MOST
7 RECENT TAX ASSESSMENT INFORMATION FOR ANY LAND TO BE DONATED TO THE BOARD
8 OF EDUCATION, a cost estimate to establish the value of construction or off-site
9 improvements offered in mitigation, and a cost estimate for construction and improvements
10 in conformance with County specifications may be approved by the Planning and Zoning
11 Officer, who may also require a mitigation agreement to ensure compliance with the
12 requirements of this section. An agreement with the Board of Education to construct school
13 facilities OR FOR THE DONATION OF LAND FOR A SCHOOL SITE must comply with
14 applicable State law and be approved by resolution introduced by the County Executive
15 and adopted by the County Council.

16
17 **(g) School Capacity Mitigation.**

18
19 (1) Pursuant to this section and § 17-5-501, a developer may enter into a School
20 Capacity Mitigation Agreement acceptable to the Planning and Zoning Officer to provide
21 capital improvements to increase school capacity, including construction of a contract
22 school, to resolve existing capacity deficiencies and to mitigate the predicted increase in
23 student enrollment in schools required to be adequate for the development, as determined
24 by the Board of Education, so that the capacity of the school in the scheduled completion
25 year will be equal to or greater than if the development had not been constructed.
26 Approvals of the development may not be granted until the capital improvements are
27 completed by the developer and accepted by the Board of Education, or adequate security
28 for completion of the capital improvements is provided by the developer. The capital
29 improvements provided by the developer pursuant to a School Capacity Mitigation
30 Agreement shall be available to any portion of the developer's specified property or project
31 and shall provide school capacity to allow approval of subdivision sketch plan applications
32 filed for the property or project within six years of the date of the School Capacity
33 Mitigation Agreement. The six year filing deadline may be extended by the Planning and
34 Zoning Officer for good cause shown.

35
36 (2) IF ENROLLMENT AT AN ELEMENTARY, MIDDLE OR HIGH SCHOOL IS IN EXCESS
37 OF 95% BUT LESS THAN 100% OF THE STATE-RATED CAPACITY, THEN PURSUANT TO THIS
38 SECTION AND § 17-5-501, A DEVELOPER MAY ENTER INTO AN AGREEMENT ACCEPTABLE TO
39 THE PLANNING AND ZONING OFFICER AND APPROVED BY THE BOARD OF EDUCATION TO
40 DONATE LAND TO THE BOARD OF EDUCATION FOR FUTURE SCHOOL FACILITIES
41 CONSTRUCTION.

42
43 (I) LAND DONATIONS AS SCHOOL MITIGATION MAY NOT BE APPROVED BY THE
44 PLANNING AND ZONING OFFICER UNLESS THE PLANNING AND ZONING OFFICER AND THE
45 BOARD OF EDUCATION DETERMINE THAT:

46
47 (1.) THE LAND TO BE DONATED IS SUITABLE FOR A SCHOOL SITE IN THE
48 SAME FEEDER DISTRICT AS THE DEVELOPMENT;

1 (2.) THE LAND TO BE DONATED IS SUITABLE TO BE ADDED TO AN EXISTING
2 SCHOOL SITE FOR A SCHOOL THAT IS OVER THE STATE-RATED CAPACITY, IN THE SAME
3 SCHOOL FEEDER DISTRICT AS THE DEVELOPMENT, AND SUITABLE FOR EXPANSION; OR
4

5 (3.) THE LAND TO BE DONATED IS SUITABLE FOR USE AS A PORTION OF A
6 SCHOOL SITE IN THE SAME FEEDER DISTRICT AS THE DEVELOPMENT, AND THE BOARD OF
7 EDUCATION REASONABLY EXPECTS OTHER SCHOOL MITIGATION LAND DONATIONS
8 SUFFICIENT TO COMPRISE A DEVELOPABLE SCHOOL SITE; AND
9

10 (4.) THAT DEVELOPMENT OF A DONATED SITE OR PARTIAL SITE FOR NEW
11 OR EXPANDED SCHOOL FACILITIES CAN REASONABLY BE EXPECTED TO PROCEED TO
12 CONSTRUCTION NO LATER THAN SIX YEARS AFTER THE DATE OF DONATION.
13

14 (II) A SCHOOL, LAND DONATION SHALL MITIGATE SCHOOL CAPACITY
15 DEFICIENCIES BASED ON THE FOLLOWING FORMULA:
16

17 (1.) THE PER-STUDENT SCHOOL CAPACITY CREATED BY A LAND DONATION
18 SHALL BE CALCULATED BY DIVIDING THE STATE TAX ASSESSMENT AT THE TIME OF
19 DONATION OF THE PROPERTY DONATED BY THE CURRENT COST-PER-STUDENT COST OF
20 SCHOOL CONSTRUCTION (AS PROVIDED BY THE BOARD OF EDUCATION) OF THE SAME
21 CLASS OF SCHOOL FACILITY AS THAT WHICH WAS DEFICIENT IN THE FEEDER DISTRICT.
22

23 (III) MITIGATION BY LAND DONATION MUST BE SUFFICIENT TO MITIGATE
24 EXISTING SCHOOL DEFICIENCIES AS WELL AS THE ADDITIONAL CAPACITY GENERATED BY
25 THE DEVELOPMENT.
26

27 (IV) THE CAPACITY CREATED BY A LAND DONATION SHALL BE AVAILABLE TO
28 ANY PORTION OF THE DEVELOPER'S SPECIFIED PROPERTY OR PROJECT AND SHALL
29 PROVIDE SCHOOL CAPACITY TO ALLOW APPROVAL OF SUBDIVISION SKETCH PLAN
30 APPLICATIONS FILED FOR THE PROPERTY OR PROJECT WITHIN SIX YEARS OF THE DATE OF
31 THE SCHOOL CAPACITY MITIGATION AGREEMENT. THE SIX YEAR FILING DEADLINE MAY
32 BE EXTENDED BY THE PLANNING AND ZONING OFFICER FOR GOOD CAUSE SHOWN.
33

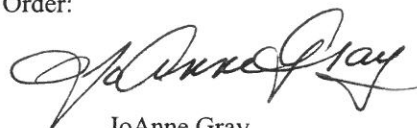
34 SECTION 2. *And be it further enacted,* That the provisions of this Ordinance shall
35 remain in effect until January 1, 2020 or until the final adoption of an Ordinance that
36 updates the 2009 Anne Arundel County General Development Plan, whichever comes first,
37 after which it shall stand repealed and with no further action required by the County
38 Council, be of no further force and effect.
39

40 SECTION 2. 3. *And be it further enacted,* That this Ordinance shall take effect 45 days
41 from the date it becomes law.

AMENDMENTS ADOPTED: December 18, 2017 and January 2, 2018

READ AND PASSED this 16th day of January, 2018

By Order:



JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 17th day of January, 2018



JoAnne Gray
Administrative Officer

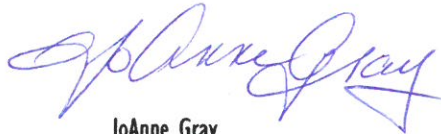
APPROVED AND ENACTED this 21st day of January, 2018



Steven R. Schuh
County Executive

EFFECTIVE DATE: March 7, 2018

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
92-17. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.



JoAnne Gray
Administrative Officer