

**AN ORDINANCE AMENDING THE CALVERT COUNTY ZONING ORDINANCE
AND ADOPTING AN ADEQUATE PUBLIC FACILITIES REQUIREMENTS FOR
DEVELOPMENT, REDEVELOPMENT AND ISSUANCE OF BUILDING PERMITS
NOT PART OF A SUBDIVISION OR SITE PLAN REVIEW**

WHEREAS, the Board of County Commissioners of Calvert County, Maryland (hereinafter, the “Board of County Commissioners”) is authorized and empowered by §4-202 and § 7-101 of the *Land Use Article* of the Maryland Annotated Code, and other applicable common laws, statutes, and regulations of the State of Maryland, to enact local laws requiring public facilities be adequate to accommodate growth and redevelopment.

WHEREAS, Sections 4-2, 5-1, 5-2, 5-3, 5-5, 6-10 and 7-10 of the Calvert County Zoning Ordinance currently provides regulations for Adequate Public Facilities;

WHEREAS, it has been recommended to the Board of County Commissioners that current zoning regulations be repealed and a new Chapter 3 of the Calvert County Code (the “Code”) be adopted to require adequate: public safety resources; public roads; public schools; public water and sewer; solid waste; and stormwater management to accommodate background, approved and proposed construction, development and redevelopment;

WHEREAS, notice of a joint public hearing with the Calvert County Planning Commission regarding the repeal of existing provisions and the adoption of Chapter 3 of the Code was duly advertised for two consecutive weeks before the public hearing held on November 29, 2022 at which time the Planning Commission and the Board of County Commissioners received public comment before the Planning Commission closed its record and made a recommendation; and

WHEREAS, upon due consideration of the comments of the public, the Planning Commission, and staff, the Board of County Commissioners finds it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland to repeal the existing adequate public facilities provisions in the Zoning Ordinance and adopt the proposed Chapter 3 of the Calvert County Code.

NOW, THEREFORE, BE IT ORDAINED that the Board of County Commissioners of Calvert County, Maryland hereby repeal and replace sections of the Calvert County Zoning Ordinance as shown on Exhibit A, attached and incorporated herein by reference, where strikethrough text is deleted and red text is added;

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that hereby approves and enacts the following Chapter 3 of the Calvert County Code:

CHAPTER 3. ADEQUATE PUBLIC FACILITIES REQUIREMENTS

ARTICLE I. PURPOSE AND GENERAL PROVISIONS

§3-1 Purpose, Authority, Scope, and Mitigation.

- A. The purpose of this Chapter is to provide a predictable planning environment for the provision of adequate public facilities by requiring residential and nonresidential development and redevelopment to pass certain tests as a condition of subdivision, site plan, and certain permit approvals. To further the purpose of this Chapter, reviews shall:

- (1) Assure that the Proposed Project of land and structures will not adversely affect the public health, safety and welfare, or diminish the value of publicly-funded reserve capacity already in place;
 - (2) Require contribution for utilizing existing, or for the provision of new, additional or upgraded public facilities necessary to address the impact on public facilities from the Proposed Project;
 - (3) To facilitate orderly development and growth in accordance with the adopted Calvert County Comprehensive Plan; and
 - (4) Assure that development and redevelopment occur in concert with the Capital Improvement Plan, enabling the County to provide adequate public facilities in a timely manner and achieve the controlled growth objectives of the Comprehensive Plan.
- B. By authority of §4-202 and § 7-101 of the *Land Use Article* of the Maryland Annotated Code, and other applicable common laws, statutes, and regulations of the State of Maryland, the Board of County Commissioners of Calvert County does hereby exercise its authority to enact local laws requiring adequate public facilities, without regard to whether those public facilities are on- or off-site of the Proposed Project. Authority to approve, approve with modifications or conditions, or deny any proposed subdivision of land or site plans in accordance with the standards hereby adopted is delegated to the Calvert County Planning Commission, or its designee. Authority to approve, approve with modifications or conditions, or deny any proposed building permit that is not part of a site plan or subdivision that has preliminary or concept approval prior to the effective date of this Chapter in accordance with the standards hereby adopted is delegated to the Calvert County Code Official, or his or her designee.
- C. Scope. All site plans, subdivisions, and application for building permit must be found either:
- (1) To have met the requirements for adequacy set forth in this Chapter, or, where permissible by the specific provisions for that public facility, adequately mitigated all deficiencies; or
 - (2) To have waited six (6) years from the first determination of inadequacy.
- D. Exemptions.
- (1) Governmental facilities owned by the State of Maryland, its instrumentalities, the County or a municipality within Calvert County, places of worship and residences for staff, parish halls, and additions to schools associated with places of worship, which are on an unrecorded parcel which has not changed in size or shape since June 29, 1967, are not subject to the provisions of this Chapter.
 - (2) Subdivisions or residential developments which are designated as Age-Restricted Housing Communities, provided that such communities comply with the requirements of the Calvert County Zoning Ordinance, Section 5-5, as amended, shall be exempt from the requirements of the Article.

- (3) A parcel may be subdivided notwithstanding the requirements of this Chapter if the parcel contains a historic residence that is designated a Calvert County Historic District and no buildable lots are created.
 - (4) For subdivision of more than seven lots, the first three lots to be created for residential purposes from any parcel of record as of February 23, 1988 shall be exempt from the Adequate Public Facilities Requirements of this Chapter. If the parcel already contains a residence, or if a building permit for a residence on the property has been issued, that residence may remain on the residue, and three additional lots may be created.
 - (5) Subdivisions containing seven or fewer lots shall be exempt from the Adequate Public Facilities Requirements if the following criteria are satisfied:
 - i. The total number of exempt lots may not exceed seven lots from any parcel of record as of February 23, 1988; and
 - ii. The subject parcel was a parcel of record as of February 23, 1988 and it is determined that the maximum number of lots to which a parcel is entitled is seven or fewer, including all existing residences, each of which must be allocated a lot; or
 - iii. An owner voluntarily restricts the maximum number of lots to not more than seven, including all existing residences, each of which must be allocated a lot, from parcels of record as of February 23, 1988; or
 - iv. Subdivisions that were recorded prior to October 1, 2012, with a maximum of five lots exempted from the Adequate Public Facilities Requirements shall be permitted additional exempt lot(s) not to exceed a total of seven lots.
- E. Validity.
- (1) An adequate public facilities determination made under this Chapter remains valid for not less than five (5) nor more than twelve (12) years.
 - (2) The test of adequacy prescribed by this Chapter shall be the date of the later of: (1) the date of plan submission; or (2) the first date upon which all necessary APFO documentation and materials have been submitted.
- F. Where mitigation is allowed by an Article of this Chapter:
- (1) Mitigation consists of the construction or funding of improvements to onsite or offsite public facilities by an applicant that increase capacity or safety on each public facility that is below the minimum standard so that the capacity or safety of the facility after mitigation will be equal to or greater than if the Proposed Project had not been developed.
 - (2) To determine the appropriate forms and levels of mitigation, an applicant shall consult with the department responsible for review and assessment of each facility that would be deemed inadequate. Once the applicant and the department agree upon the forms and levels of mitigation that will offset the impact of the project upon the facility, the applicant shall enter into a mitigation plan on terms and conditions acceptable to the Department of Planning and Zoning in consultation with the Office of Law. The mitigation plan shall require the applicant to provide the mitigation agreed upon and

in return the Department of Planning and Zoning shall determine that the facility or facilities will be adequate for the project.

- (3) If a department finds that a facility is or would be inadequate as a result of more than one Proposed Project, the department may apportion the responsibility and cost of mitigation among all contributing projects, which apportionment shall be reflected in the applicable mitigation plans.
 - (4) Each mitigation plan shall be approved by the Director of Planning and Zoning as well as the department responsible for the facility for which the mitigation plan approval is sought. If a facility would be inadequate for a project, and if the project and the applicant are unable to agree upon acceptable forms and levels of mitigation for the facility such that no mitigation plan is entered into by the applicant, the department shall determine that the facility is inadequate to support the project and shall forward a written copy of such findings and explanation to the Director of Planning and Zoning.
- G. Certificate of Adequate Public Facilities. Where all applicable public facilities tests are passed, or adequately mitigated, the Planning Commission Administrator or designee shall issue a Certificate of Adequate Public Facilities that shall remain valid as long as the subdivision, site plan or permit remains valid, absent exigent circumstances.

ARTICLE II. CONSTRUCTION AND DEFINITIONS

§3-2 Construction.

- A. The following rules of construction shall apply to the text of the chapter:
- (1) The particular will control the general.
 - (2) The words “shall” and “will” are always mandatory and not discretionary. The word “may” is permissive.
 - (3) Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
 - (4) A building or structure includes any and every part thereof.
 - (5) The phrase “used for” includes “arranged for, designed for, intended for, maintained for, or occupied for.”
 - (6) The word “person” includes an individual, a corporation, a partnership, an incorporated association, joint venture, limited liability company, limited liability limited partnership, and all other similar entities.
 - (7) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves 2 or more items, conditions, provisions, or events connected by the conjunction “and, or,” or “either ... or,” the use of the conjunction is defined as follows:
 - (a) “and”. All the connected items, conditions, provisions, and events apply together and not separately.

- (b) “or”. The connected items, conditions, provisions, or events apply separately or in any combination.
- (c) “either ... or”. The connected items, conditions, provisions, or events shall apply separately but not in combination.
- (8) The word “includes” does not limit a term to the specified examples, but is intended to extend the term’s meaning to all other instances or circumstances of like kind or character.

§3.3 Terms defined.

- A. When a term defined in the current County Zoning Ordinance, or Road Ordinance codified at Chapter 104 of the Calvert County Code, occurs in this Chapter, it has the meanings here as that specified there, as may be amended from time to time, unless specifically defined in this Chapter.
- B. Throughout this Chapter, all words, other than the terms specifically defined herein, have the meaning inferred from their context in this Chapter utilizing ordinarily accepted definitions.
- C. In this Chapter, the following terms and phrases, whether capitalized or not within, are used as defined unless otherwise apparent from the context:

Adequacy

That test for the condition and state of public infrastructure and services present to serve existing and the Proposed Project.

Applicant

A person, or an agent thereof, with an interest in the Proposed Project and that undertakes or participates in the activities covered by this Chapter.

Board of County Commissioners

Board of County Commissioners of Calvert County, Maryland, a body corporate and politic.

Capacity

The ability of a public facility or service to accommodate development, redevelopment or service demands based upon the standards adopted by this Chapter.

Capital Improvement Plan (CIP)

That part of the Fiscal Year Budget adopted by the Board of County Commissioners intended to identify and adequately plan for future expansion, renovation and construction of public facilities.

Certificate of Adequate Public Facilities

A written statement signed by the Planning Commission Administrator, or a designee, certifying that a Proposed Project complies with the terms and provisions of this Chapter.

Comprehensive Plan

That plan so named and last adopted by the Board of County Commissioners.

County

Calvert County, Maryland.

Development

The improvement or redevelopment of land, except as relative to agriculture or forestry, by grading and/or construction of buildings, structures or infrastructure; or the subdivision of land for building purposes; or existing improvements of a piece of land.

Director

The highest ranking official in each department or agency.

Elementary or Secondary School

An educational facility that typically includes prekindergarten through twelfth grades. Includes buildings, structures, or facilities that by design and construction are primarily intended for the education of students including associated uses, including, without limitation, dormitories, office buildings, athletic fields, etc.

Fees-in-Lieu

Payments that may be required as a substitute for an in-kind requirement.

Final Approval

The final approval of a major subdivision or site plan by the Planning Commission, or its designee, or building permit by the Building Code Official.

Inadequacy

Facilities, infrastructures or services not currently available or sufficient to serve a Proposed Project.

Level of Service (LOS) Standard

An indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based upon and related to the operational characteristics of the facility. LOS standard indicates the capacity per unit of demand for each public facility, or the performance characteristics of the public facility that are affected by new development.

Mitigation

An action taken to compensate or offset an adverse impact upon public facilities.

Mixed Use

A type of zoning or development that physically and functionally integrates multiple uses such as residential, commercial and/or institutional on one site.

Non-Residential Use

A structure or land used or intended for commercial, industrial or institutional uses, which includes retail, office, entertainment, recreation, public, institutional, industrial, and other non-residential uses.

Owner

A person having legal title to a piece of land.

Private Community Water System

Any system that provides water for human consumption that is not a Public Water System.

Property

A building, structure, or parcel of land or the combination thereof.

Proposed Project

A proposal or plan for new development, redevelopment, or a change in the use of land or any building or structure for which the applicant is required to obtain a building or grading permit.

Public Facilities

Facilities, services, and infrastructures that are owned and maintained, or funded, in whole or in part, by the County and regulated by this Chapter.

Public Sewer System

That system defined in the Sewers and Sewage Disposal, Chapter 110 of the Calvert County Code, as amended from time to time.

Public Water System

A system that provides water for human consumption to the public through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. "Public water system" includes: (i) any collection, treatment, storage, and distribution facilities under control of the operator of the system, and used primarily in conjunction with the system; and (ii) any collection or pretreatment storage facilities not under that control which are used primarily in connection with the system.

Redevelopment

Improving a site by grading, demolition, reconstruction, or renovation of existing land, buildings, structures, infrastructure, or uses.

Residential Subdivision

A division of a piece of land into two or more lots or parcels for the purpose of constructing one or more dwelling units.

Solid Waste Facility

As defined in the Calvert County Comprehensive Solid Waste Management Plan, as amended from time to time.

Storm Drainage System

Publicly owned facilities by which stormwater is collected and conveyed, including but not limited to any roads with drainage systems, multiple streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater Management

As defined in the Calvert County Stormwater Management Ordinance, as amended from time to time.

ARTICLE III. PUBLIC SAFETY SERVICES

§3-4. Adequacy of Fire and Emergency Medical Services (EMS). There are four (4) components, each of which must be found adequate:

- A. Adequacy of fire service is determined based upon projected response time, and sufficiency of water supplies. Both criteria must be met for service to be adequate:

- (1) Response Criteria. Fire incident response time to the first due response subarea for the arrival of an initial company shall be within a 10-minute response time to at least ninety percent of incidents dispatched, as measured annually.
 - (2) Fire Flow and Duration: A public water system or private community water system will be adequate if, given existing connections and future connections from Proposed Project utilizing that system if the requirements of Calvert County Code § 44-15, as amended from time to time, are met.
- B. Emergency Medical Services (EMS). Adequacy of EMS service is determined based upon projected response time for Basic Life Support (BLS) with an Automated External Deliberator (AED) and an Advanced Life Support Unit (ALS). Both criteria must be met for service to be adequate:
- (1) EMS incident response time to the box where development or redevelopment is proposed for a BLS unit with AED shall be within a 10-minute response time to at least ninety percent of incidents dispatched, as measured annually.
 - (2) EMS incident response time to the box area where development is proposed for the arrival of an ALS unit shall be within a 10-minute response time to at least ninety percent of incidents as measured annually.
- C. Call Volume. Calvert Emergency Communications' staffing is considered adequate when:
- (1) the approved full-time equivalents (FTEs) assigned to take 9-1-1 calls and dispatch emergency responders meets or exceeds the FTEs recommended by the NENA staffing tool, as amended from time to time; and
 - (2) The County has a sufficient number of call takers and equipment to consistently answer incoming calls on a daily average of 10 seconds or less.
- D. Law Enforcement Services. Calvert County Sheriff's Office law enforcement services are deemed adequate if the projected ratio of sworn law enforcement officers to population is 1.5 deputies per 1000 residents. The growth generated by any Proposed Project may not exceed the service capacity of law enforcement officers.

§3-5. Mitigation. Public Safety Services found not to be adequate may be mitigated in accordance with the following:

- A. A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- B. The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the Director of Public Safety.

ARTICLE IV. PUBLIC ROADS

§3-6. Acceptable Levels of Service

- A. The Director of Public Works shall be responsible for review and assessment of a Proposed Project with regard to the adequacy of roadways.
- B. Impact studies are required in accordance with Appendix 1 to this Chapter, as amended from time to time.
- C. The traffic impact area shall be defined by Appendix 1 to this Chapter.
- D. To be deemed adequate, each lane and lane approach for roadways in the impact area must operate at or above the minimum level of service of "C" using the Highway Capacity Method.
- E. Except as otherwise provided herein, projected Level of Service for road segments or intersections within the proposal's traffic impact study area is E or F, according to the Department of Public Works or by the State, as applicable, are deemed inadequate.

§3-7. Mitigation. Public Roads found not to be adequate may be mitigated in accordance with the following:

- A. A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- B. The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the Director of Public Works.

ARTICLE V. PUBLIC SCHOOLS

§3-8. Adequacy of Public Schools.

- A. In addition to prior exemptions set forth above, this Article shall only apply to residential development and redevelopment.
- B. Schools shall be considered adequate if the enrollment for each public school serving the development is less than 100% of local-rated capacity.
- C. Local-Rated Capacity shall be calculated as follows:
 - (1) Elementary Schools:
 - (a) The rated capacity shall be the sum of the following:
 - (i) Pre-kindergarten equals number of classrooms multiplied by 20;
 - (ii) Kindergarten equals number of classrooms multiplied by 22;
 - (iii) Grades one through five equals number of classrooms multiplied by 23; and
 - (iv) Special education (self-contained) equals number of classrooms multiplied by 10.
 - (b) The number of classrooms does not include such areas as libraries, media centers, cafeterias, physical education rooms, art rooms, music rooms, assembly rooms, science rooms, special reading rooms, and career education rooms, relocatable classrooms or rooms for other unique programs.

- (c) Self-contained special education classrooms are rooms that are used by students receiving special education services outside the general education setting for more than 60 percent of the day.
- (2) Middle Schools and High Schools:
 - (a) The rated capacity shall be determined by multiplying the number of teaching stations by 25, then multiplying the product by 85 percent, and then adding to that the product of the number of teaching stations for special education multiplied by 10. However, added to the high school rated capacities will be the lower number of students attending the morning or afternoon sessions of the Career Center for each respective high school at the beginning of the grading period.
 - (b) Teaching stations are to be defined as interchangeable classrooms, special purpose rooms, laboratories, vocational/industrial arts shops (excluding vocational resource classrooms), art rooms, mechanical drawing rooms, music rooms, and home economics rooms. A gymnasium shall be considered to be one teaching station except that a gymnasium with a standard inter-scholastic basketball court shall be counted as two teaching stations. This definition does not include relocatable classrooms.
- D. The Department of Planning & Zoning shall publish a report annually listing 100 percent of the current rated capacity of each school in the County.
- E. School adequacy shall be determined based on:
 - (1) Background enrollment growth, extrapolated over the number of years for which Certificate approval is requested;
 - (2) Projected enrollment growth, including pupils anticipated to be generated by approved developments in accordance with Table 3-8.1;

Table 3-8.1 Pupil Yields			
Housing Type	Grade K-5	Grade 6-8	Grade 9-12
Single-family detached	.291	.130	.176
Single-family attached	.194	.084	.118
Low-rise apartments	.097	.043	.059
Manufactured Homes	.145	.065	.088

- (3) Actual capacity expected to be provided by new schools and school additions scheduled for construction in the first 2 years of the CIP (provided that the CIP project and the Proposed Project are located within the same school attendance boundaries, including areas where redistricting boundaries have been approved) after taking the factors listed above in (C)(1), (2) and (3) into account; and
- (4) Other enrollment data, trends and factors, including phasing in of new school capacity, that may impact the capacity of the schools serving the Proposed Project, as determined by the Board of Education, or its designee.
- F. School renovations.

- (1) For the purposes of determining adequacy under this Article, the available capacity of a school which is completely or partially closed for renovation shall be the percentage of the school local-rated capacity available and certified for use by the Board of Education, or its staff. One Hundred percent of the available state-rated capacity of the school under renovation shall be considered to be available six (6) months prior to the expected renovation completion date as certified by the Board of Education, or its staff.
- (2) For the purposes of determining adequacy under this Article, the available capacity of a school which is being utilized to serve students from another school which is under renovation shall be the percentage of the school local-rated capacity available and certified for use by the Board of Education, or its staff. One hundred percent of the available local-rated capacity of the school shall be considered to be available six (6) months prior to the expected renovation completion date as certified by the Board of Education, or its staff.

§3-9. Mitigation. Public Schools found not to be adequate may be mitigated in accordance with the following:

- A. A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- B. The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning.
- C. Any residential subdivision or residential development which has not been entitled to final approval for at least six (6) years from the date of preliminary approval, due solely to lack of adequate school capacity, shall be entitled to final approval, regardless of the adequacy of school capacity, provided that all other conditions of final approval are satisfied.
- D. Notwithstanding any provisions of this Article, the Planning Commission may grant final approval of one or more amended plats of a residential subdivision or residential development or a portion thereof without finding that all identified schools are adequate. The Planning Commission must find that the pupil yield that would result from the residential subdivision or residential development as amended is no greater than that of the residential subdivision or residential development without any amendment and that the amendment would not result in any adverse impact on the public health, safety and general welfare of the present and future inhabitants of the development.

ARTICLE VI. SOLID WASTE

§3-10. Acceptable Levels of Service

- A. The Director of Public Works shall be responsible for review and assessment of a Proposed Project with regard to the adequacy of solid waste facilities.

- B. To be deemed adequate, the additional waste generated by the development or redevelopment will not cause the Appeal Transfer Center to exceed 70% of its approved and permitted capacity.

§3-11. Mitigation. Solid waste facilities found not to be adequate may be mitigated in accordance with the following:

- A. A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- B. The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the Director of Public Works.

ARTICLE VII. STORM DRAINAGE SYSTEM

§3-12. Acceptable Levels of Service

- A. The Director of Public Works shall be responsible for review and assessment of a Proposed Project with regard to the adequacy of stormdrain discharge in accordance with all local laws, ordinances, resolutions, regulations, policies and procedures.
- B. Determining Adequacy. The Proposed Project shall be served by an adequate storm drainage system. A storm drainage system shall be considered adequate if:
- (1) The on-site stormwater drainage system installed by the developer will be capable of conveying through and from the property the design flow of storm water runoff originating in the development during a 2, 10, and 100-year flood as determined in accordance with criteria specified in the Calvert County Road and Site Development and Stormwater Management Ordinance, in addition to flows from undeveloped land upstream in the natural watershed of the Proposed Project, flows from existing upstream developments, and designs flows from developments for which plats and plans have been approved, without resulting in erosion, sedimentation or flooding of the receiving channel and downstream properties; and
 - (2) The off-site downstream public drainage systems are capable of conveying to an acceptable outfall the design flow of storm water runoff originating in the development, as determined in accordance with criteria specified in the Calvert County Road and Site Development and Stormwater Management Ordinance, in addition to flows from undeveloped land up-stream in the natural watershed of the Proposed Project, flows from existing upstream developments, and design flows from developments for which plats have been recorded, without resulting in erosion, sedimentation, or flooding of the receiving channel and down-stream properties.

- C. Off-site Downstream Public Drainage System Improvements. A Public storm drainage system shall be considered adequate if there is compliance with subsection §3-12.B.1 and the County has awarded a contract for the construction or improvement of off-site downstream drainage systems necessary, in combination with existing systems, to comply with the standard specified in subsection §3-12.B.2 and if the construction or improvement of the off-site downstream drainage system is expected to be completed before the issuance of the first building permit for the development or the developer agrees to under-take the construction or improvement of the off-site downstream drainage systems.
- D. Calculating Runoff. In determining the adequacy of a storm drainage system, storm water runoff flows from land for which a plat has not been recorded shall be calculated as if the land was developed according to its existing zoning classification and as if storm water management techniques, as may be required by the Stormwater Management Ordinance, have been utilized. Storm water runoff flows from other lands shall be calculated on the basis of whether or not storm water management techniques have been utilized.
- §3-13. Mitigation.** Stormwater management and storm drainage systems found not to be adequate may be mitigated in accordance with the following:
- A. A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- B. The forms and levels of mitigation required shall be proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Planning Commission Administrator in consultation with the Director of Public Works.

ARTICLE VIII. PUBLIC WATER & SEWER

§3-14 Public Water

- A. Adequacy of Service. For service from a part of the Public Water System, the supplying facility is adequate if:
- (1) The sum of the maximum day demand of the Proposed Project and existing usage is less than Ninety percent (90%) of the supplying system's production and conveyance capacity; and
- (2) Fire flow is:
- i. Not made inadequate at any existing location where flow is adequate prior to the proposal; and
- ii. Met at the Proposed Project, as required by this Chapter.
- B. Mitigation. Water service from a Public Water Supply found not to be adequate may be mitigated in accordance with the following:
- (1) A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly,

- or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- (2) The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the Director of Public Works.

§3-15 Public Sewer

- A. Adequacy of Service. For service from a part of the Public Sewer System, the receiving facility is adequate if the sum of the existing and the Proposed Project's annual average daily flow is less than Ninety percent (90%) of the receiving system's permitted and authorized treatment capacity.
- B. Mitigation. Public sewer service found not to be adequate may be mitigated in accordance with the following:
- (1) A proposal that is subject to denial or delay under this Article shall be given an opportunity to provide infrastructure funds, to improve facilities directly, or to donate necessary facilities in order to allow for approval of the application under this Article for a Certificate of Adequate Public Facilities.
- (2) The forms and levels of mitigation required shall be roughly proportionate to the projected impact of the Proposed Project upon the facility or facilities and shall be determined by the Director of Planning and Zoning in consultation with the Director of Public Works.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, notwithstanding any provision hereof to the contrary: (1) any development application for site plan, subdivision, road plan or permit review shall be grandfathered under the prior regulations and shall remain vested for twelve (12) months from the effective date of this Ordinance; and (2)(a) those grandfathered by (1), above, that mature to concept site plan, preliminary subdivision, or road plan approval or permit issuance within the twelve (12) month period, and (b) those projects with concept site plan or preliminary subdivision approval upon the effective date of this Ordinance, shall be grandfathered under the prior regulations so long as such development approval(s) shall remain valid, and not expired, pursuant to the applicable provisions of the Calvert County Zoning Ordinance currently in effect.

BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are hereby incorporated and adopted as if fully set forth herein.

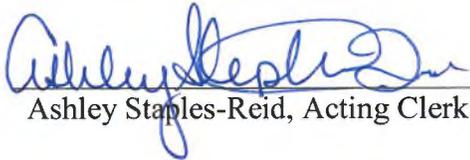
BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that this Ordinance shall be effective upon recordation and publication of a fair summary.

DONE, this 29th day of November, 2022, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 4
Nay: 0
Absent/Abstain: 1

ATTEST:

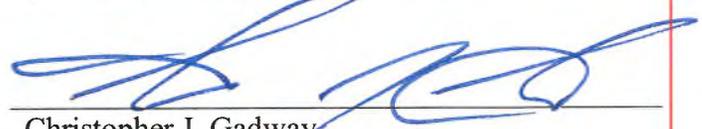
**BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND**


Ashley Staples-Reid, Acting Clerk


Earl F. Hance, President

Approved for form and legal
sufficiency by:


Steven R. Weems, Vice-President


Christopher J. Gadway


John B. Norris, III, County Attorney


Mike Hart

Absent
Kelly D. McConkey

Received for Record..... 11/30 , 20 22
at..... 11:00 o'clock..... A .M. Same day
recorded in Liber KPS No. 69
Folio..... 483..... COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.



Text Amendment Case #22-05
Amendments to the Calvert County
Zoning Ordinance

Section 4-2 General Requirements for Development Plans

Section 5-1 Residential Density, Lot Area, Lot Width, Setback
& Height Requirements – All Districts

Section 5-2 Lay-Out and Design of Single-Family Residential
Communities

Section 5-3 Townhouse, Single-Family Attached, Multi-Family,
and Mixed Residential Development

Section 5-5 Age-Restricted Housing Communities

Section 6-10 Adequate Public Facilities Requirements

Section 7-1 Subdivision Regulations

Black font – existing ordinance language

Red font – proposed ordinance language

~~Black Strikethrough~~ – existing ordinance language to be removed

4-2 GENERAL REQUIREMENTS FOR DEVELOPMENT PLANS

(10/13/10) 4-2.04 Expiration of Site Plan Approvals and Vesting
(06/09/20)

A. Expiration of Site Plan Approvals

The following expiration provisions shall apply to all site plan applications, including site plan applications submitted prior to the effective date of this section of the Ordinance (Adoption Date).

1. Conceptual Site Plans (Category I and Category II)

- a. An application for a conceptual site plan shall expire 12 months after it has been accepted for review unless conditional approval has been granted by the Planning Commission or its designee.
- b. Approval of a conceptual site plan shall expire 12 months after it has been granted approval, unless a detailed site development plan application has been accepted by the Department of Planning & Zoning for distribution and review.

2. Detailed Site Development Plans (Category I and Category II)

- a. An application for a detailed site development plan shall expire 24 months after it has been accepted for review, unless final approval is granted.
- b. Detailed site development plans shall expire 36 months after obtaining final approval, unless the criteria for vesting through construction as set forth under Section 4-2.04.B.1.a.-c. has been met.
- c. If final approval of a detailed site development plan application is delayed due to the inadequacy of public schools or roads, expiration of the application shall be tolled during the period of inadequacy, or as required to meet **the Calvert County Code, Chapter 3 Adequate Public Facilities requirements, as amended from time to time. Adequate Public Facilities in Section 7-1.05 or Section 6-10.04.**

5-1 RESIDENTIAL DENSITY, LOT AREA, LOT WIDTH, SETBACK & HEIGHT REQUIREMENTS – ALL DISTRICTS

5-1.03 Residential Density Requirements in the Rural Community District

D. All other land to be subdivided within the Rural Community District

- 6. Receiving Area Lots. The Rural Community Districts are Receiving Areas for Transferable Development Rights (TDRs). To determine the number of receiving area lots that may be created:
 - a. In the Rural Community District outside the one-mile radius of Town Centers², divide the total net acreage (paragraph D.1) by 4 and round down to the nearest whole number. Subtract the number of conventional lots (paragraph D.3) and the number of TDR lots (paragraph D.4). The remaining number of lots may be created as receiving area lots with the application of five Transferable Development Rights for each lot provided conditions i, ii, and iii below are met.
 - b. In the Rural Community District within the one-mile radius of the

Town Centers ³, take the total net acreage (paragraph D.1) and round down to the nearest whole number. Subtract the number of conventional lots (paragraph D.3) and the number of TDR lots (paragraph D.4). The remainder is the number of lots that may be created as receiving area lots with the application of five Transferable Development Rights for each lot provided the conditions i, ii, and iii below are met.

- i. The property is not located in the Resource Conservation Area or the Limited Development Area of the Critical Area.
- ii. Receiving area lots (paragraph 5a or b) are not permitted within a major subdivision unless all owners in the subdivision sign the application. Those subdivisions which are only considered major subdivisions because of the creation of a right-of-way are exempt from this regulation.
- iii. If the recording occurs in sections, then the developer shall be required to apply a proportionate number of the total development rights required for the entire subdivision to that section except for the recording of APFO exemption lots, **as provided in the Calvert County Code, Chapter 3 Adequate Public Facilities, as amended from time to time**. When a parcel is developed in sections, a note shall be placed on the initial subdivision plat and all subsequent plats reserving for the remainder of the parcel the density available at the time the initial subdivision plat was approved. The density shall be expressed as dwelling units per acre. If, for whatever reason, a developer records more development rights than necessary to complete the development of a parcel, the number of such excessive development rights shall be determined by the Department of Planning and Zoning and recertified as eligible for use elsewhere.

(04/26/17)

5-2 LAY-OUT AND DESIGN OF SINGLE-FAMILY RESIDENTIAL COMMUNITIES

5-2.01 Lay-out and Design of Single-Family Detached Residential Communities Outside Town Centers

- D. Site Design in all subdivisions (clustered and non-clustered)
 4. Protection of Farm Structures and Historic Structures (See also incentives in **the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time Section 7-1.05.F.1.b—Adequate Public Facilities**)
 - *a. In the event existing farm structures (such as barns, outbuildings and fences) are located on the site, they shall be retained and included together with cropland, pasture and/or meadow as part of one or several farm lots.

²See Section 2-10.02.C for the definition of the 1-mile radius.

³See Section 2-10.02.C for the definition of the 1-mile radius.

- b. In the event any building on the site is 50 years old or older, the Historic District Commission shall be notified to determine whether the building has historic merit.
- *c. In the event the Historic District Commission determines that the building has historic merit, the building shall be retained on site and incorporated into the site where feasible, and views of the building from roads, adjacent properties and proposed building sites shall be protected.
- d. The Planning Commission may require screening between existing farm and/or historic structures and new houses.

5-3 TOWNHOUSE, SINGLE-FAMILY ATTACHED, MULTI-FAMILY, AND MIXED RESIDENTIAL DEVELOPMENT

5-3.13 Adequate Public Facilities Requirements

The adequate public facilities requirements contained in **the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time Article 7, Subdivision Regulations**, also apply to all townhouse, single-family attached, multi-family, and mixed residential development.

5-5 AGE-RESTRICTED HOUSING COMMUNITIES

5-5.01 General Requirements for Age-Restricted Housing Communities

- A. Single-family Age-Restricted Housing Communities shall comply with the requirements for standard subdivisions with regard to lot density, lot size, setbacks, etc. contained in this Article and Article 7, Subdivision Regulations **and the provisions of the Calvert County Code, Chapter 3 Adequate Public Facilities, as amended from time to time.**
- B. Townhouse, Single-family Attached, Multi-family, and Mixed Residential Age-Restricted Housing Communities shall comply with Section 5-3.
- C. The following additional requirements shall apply to Age-Restricted Housing Communities:
 - 1. The development shall include at least 20 residential units.
 - 2. All units shall be either handicapped accessible or handicapped adaptable.
 - 3. Covenants shall be placed on the property that specify the age-restricted nature of the proposed community. Such covenants shall require the prior approval of the Board of County Commissioners and the Planning Commission or its designee, and shall be in accordance with the Federal Fair Housing Act, 42 U.S.C. § 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, § 19 et seq., and this Zoning Ordinance, as amended from time to time. The covenants shall provide:
 - a. That at least 80% of the dwelling units are to be occupied by at least one Age-Qualified Resident;
 - b. That persons, at least 19 but under 55 years of age, may reside in a dwelling unit provided the person resides with the Age-Qualified Resident or occupies one of the 20% of dwelling units not required to be occupied by an Age Qualified Resident.

- c. That a person under 19 years of age may visit a dwelling unit as the guest of the occupants of a dwelling unit, provided that no person under the age of 19 may stay overnight in a dwelling unit for more than two consecutive weeks or for a total of more than 30 days in any 12-month period;
- d. That except as otherwise required by the Federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., no persons under 19 years of age may reside in any unit;
- e. That any provision of the covenants pertaining to the age-restricted nature of the community may not be amended without the approval of the Board of County Commissioners;
- f. That none of the units may be converted to general housing unless: (a) conversion is approved by all unit owners, the Board of County Commissioners and the Planning Commission, (b) all of the units are converted, (c) all requirements of **the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time, Section 7-1.05, Adequate Public Facilities**, are met at the time of conversion, and (d) the building excise tax in effect at the time of conversion for the type of dwelling into which the units are converted shall be paid, less the amount of excise tax originally paid.

6-10 ADEQUATE PUBLIC FACILITIES REQUIREMENTS

6-10.01 Adequate Public Facilities Requirements for Commercial and Industrial Development

See the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time.

A. General

06/19/20)

~~1. The Planning Commission or its designee may grant final detailed site development plan approval of a commercial or industrial development of land subject to these regulations either in its entirety or by section only if it finds that:~~

~~a. all roads and intersections identified by the Director of the Department of Public Works (DPW) or his designee are adequate; or~~

~~b. roads and intersections will be adequate within one year following final site plan approval; or~~

06/19/20)

~~c. the applicant mitigates the impact of the development (as determined by the Director of DPW or his designee) in accordance with paragraphs 'C.2' and 'C.3' below.~~

~~2. This requirement does not apply to those developments that are exempt as described in Sub-Section 'C' or that receive a waiver under Sub-Section 'D' of this Section.~~

B. Traffic Study Required

~~1. The proposed commercial or industrial development shall be served by roads and intersections that are adequate to safely accommodate the vehicular traffic projected to be generated by the development.~~

06/19/20)

- 2. ~~At the applicant's expense, a traffic study conducted by a Registered Professional Engineer and approved by the Director of DPW or his designee, is required for all commercial and industrial developments as specified in the Calvert County Road Ordinance. If the Director of DPW or his designee determines that a traffic study is required, the traffic study shall be submitted and approved prior to approval of the detailed site development plan application by the Planning Commission or its designee.~~
- 3. ~~The Director of DPW or his designee shall determine whether the traffic study was properly submitted and shall provide recommendations as to whether all the roads and intersections are adequate.~~

C. Levels of Service and Mitigation

~~The requirements for mitigation described below apply to commercial or industrial uses which are projected to generate an average of more than 400 trips per day.~~

- 1. ~~Requirements for County Roads and County Intersections Outside the Town Centers~~
~~To be determined adequate, County roads and County intersections outside the Town Centers shall maintain a level "C" service rating, after completion of the proposed development as well as all other existing and proposed developments within the study area.~~
- 2. ~~Requirements for County Roads and County Intersections within the Town Centers~~
~~A level "D" service rating will be acceptable for County roads and County intersections within the Town Centers, after completion of the proposed development as well as all other existing and proposed development within the study area. However, in cases where roads and intersections are not adequate, site plan approval shall not be granted unless the applicant provides improvements to mitigate for the impact of the development. The Board of County Commissioners may waive this requirement in certain instances (see 'D' below).~~
- 3. ~~Requirements for All State Roads and State Intersections (inside and outside the Town Centers)~~
~~The criteria listed in '2' above shall apply to all State roads and State intersections, regardless of whether or not they are located within a Town Center.~~

D. Waivers

~~The mitigation requirements of paragraph 'C.2' (above) may be waived by the Board of County Commissioners upon request by the applicant.~~

7-1 SUBDIVISION REGULATIONS

7-1.05 Adequate Public Facilities Requirements

See the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time.

(05/12/09)

A. General

~~Before the Planning Commission can grant final approval of a residential~~

~~subdivision or residential development of land (which includes subdivisions and site plans for townhouse, single-family attached, multi-family, and mixed residential developments) subject to these regulations either in its entirety or by section, it must find that all identified roads and schools are adequate or that roads are programmed to be adequate within one year. Otherwise, approval shall be denied. In cases where facilities are not adequate, a residential subdivision or residential development shall receive final approval if the applicant provides improvements to render both the roads and schools adequate. The adequacy of schools shall be evaluated based on the rated capacity of the public schools.~~

(05/12/09)

B. Limitation on Applicability

~~1. If final approval of a residential subdivision or residential development is being delayed only because of inadequate facilities, the following limitation on applicability shall apply:-~~

(11/29/18)

~~a. Any residential subdivision or residential development which has not been entitled to final approval for at least six years from the date of preliminary approval, due solely to the lack of adequate school capacity, shall be entitled to final approval, regardless of the adequacy of school capacity, provided that all other conditions of final approval are satisfied.~~

~~2. Notwithstanding the above, the Planning Commission may grant final approval of one or more amended plats of a residential subdivision or residential development or a portion thereof without finding that all identified roads and schools are adequate, provided that it finds that the pupil yield that would result from the residential subdivision or residential development as amended is no greater than that of the residential subdivision or residential development without any amendment and that the amendment would not result in any adverse impact on the public health, safety and general welfare of the present and future inhabitants of the development.~~

~~3. The Planning Commission shall develop and publish policies and procedures as necessary for obtaining final approval for residential subdivisions or residential developments which have been on hold pending adequacy of public facilities. See also Section 7-1.07.B.8.~~

C. Roads

~~1. The proposed residential subdivision or residential development must be served by access roads adequate to safely accommodate the vehicular traffic projected to be generated by the residential subdivision or residential development. At the applicant's expense, a traffic study conducted by a Registered Professional Engineer approved by the Department of Public Works may be required. The study shall be in accordance with written procedures and criteria established by the Department of Public Works and approved by the Board of County Commissioners.~~

~~2. The traffic impact study will be required to determine if the roadways and intersections are adequate to accommodate the proposed~~

~~residential subdivision or residential development. To be determined "adequate" by the Planning Commission, the County road(s) must maintain a level "C" service rating, after full development of this and all other existing and proposed residential developments and subdivisions within the study area. The County intersections must maintain a level "C" service rating except for Town Centers where a level "D" service rating will be acceptable. State roads and intersections must maintain a minimum level "D" service rating, after full development of this and all other existing and proposed subdivisions and residential development within the study area. Detailed guidelines for the traffic study have been developed by the Department of Public Works. The Department of Public Works shall determine whether or not the traffic study has been completed according to the approved criteria. The traffic study may be waived under extenuating circumstances by the County Engineer or his designee.~~

3. ~~The Department of Public Works shall provide recommendations to the Planning Commission as to whether all the roads are "adequate".~~

D. Schools

1. **Adequacy**

~~Schools are adequate when all public elementary and secondary schools which will serve the proposed residential subdivision or residential development will accommodate the pupil yield from that residential subdivision or residential development without exceeding 100 percent of the rated capacity of any of those schools.~~

2. ~~If the enrollment exceeds 100 percent of rated capacity, the schools may still be deemed adequate if an adopted redistricting results in the enrollment projected by the Department of Planning & Zoning for the next school year not exceeding 100 percent of rated capacity in any of the schools serving the residential subdivision or residential development. The Department of Planning & Zoning is authorized to create criteria for enrollment projections.~~

3. **Pupil Yields**

TABLE 7-1 PUPIL YIELDS			
<u>Housing Type</u>	Grade K-5	Grade 6-8	Grade 9-12
Single-family detached	.291	.130	.176
Single-family attached	.194	.084	.118
Low-rise apartments	.097	.043	.059
Manufactured Homes	.145	.065	.088

4. **Rated Capacity of Schools**

- a. **Elementary Schools:**

- i. **The rated capacity shall be the sum of the following:**

- ~~(1) Pre-kindergarten equals number of classrooms multiplied by 20;~~
- ~~(2) Kindergarten equals number of classrooms multiplied by 22;~~
- ~~(3) Grades one through five equals number of classrooms multiplied by 23; and~~
- ~~(4) Special education (self-contained) equals number of classrooms multiplied by 10.~~

- ~~ii. The number of classrooms does not include such areas as libraries, media centers, cafeterias, physical education rooms, art rooms, music rooms, assembly rooms, science rooms, special reading rooms, and career education rooms, relocatable classrooms or rooms for other unique programs.~~
- ~~iii. Self-contained special education classrooms are rooms that are used by students receiving special education services outside the general education setting for more than 60 percent of the day.~~

b Middle Schools and High Schools:

- ~~i. The rated capacity shall be determined by multiplying the number of teaching stations by 25, then multiplying the product by 85 percent, and then adding to that the product of the number of teaching stations for special education multiplied by 10. However, added to the high school rated capacities will be the lower number of students attending the morning or afternoon sessions of the Career Center for each respective high school at the beginning of the grading period.~~
- ~~ii. Teaching stations are to be defined as interchangeable classrooms, special purpose rooms, laboratories, vocational/industrial arts shops (excluding vocational resource classrooms), art rooms, mechanical drawing rooms, music rooms, and home economics rooms. A gymnasium shall be considered to be one teaching station except that a gymnasium with a standard inter-scholastic basketball court shall be counted as two teaching stations. This definition does not include relocatable classrooms.~~

- ~~5. The Department of Planning and Zoning shall publish a report annually listing 100 percent of the current rated capacity of each school in the County.~~
- ~~6. Exception: The determination of adequacy of schools is not required for subdivisions which are non-residential in nature or subdivisions or residential developments which are designated as Age-Restricted Housing Communities, provided that such communities comply with the requirements of Section 5-5.~~

E. Notification of Inadequate Capacity

~~If facilities are identified as having inadequate capacity, the Department of~~

Planning and Zoning shall notify the Planning Commission and the County Commissioners.

F. Exemptions

(11/29/18)

1. ~~Parcels eligible for more than seven lots:~~

- ~~a. The first three lots to be created for residential purposes from any parcel on record as of the date of this amendment (February 23, 1988) shall be exempt from the Adequate Public Facilities Requirements. If the parcel already contains a residence, or if a building permit for a residence on the property has been issued, that residence may remain on the residue, and three additional lots may be created.~~
- ~~b. If the parcel contains an historic residence that is designated an Historic District during the subdivision process, then the lot on which the Historic District is designated may be recorded, regardless of whether the Adequate Public Facilities requirements are met.~~

(08/05/15)

2. ~~Subdivisions containing seven or fewer lots shall be exempt from the Adequate Public Facilities Requirements if the following items can be met:~~

(08/05/15)

- ~~a. the subject parcel was a parcel of record as of February 23, 1988 and it is determined that the maximum number of lots to which a parcel is entitled is seven or fewer (including any existing residences), or~~
- ~~b. an owner voluntarily restricts the maximum number of lots to no more than seven (including any existing residences) from parcels of record as of February 23, 1988. Any existing residence must be included on an individual lot, or~~
- ~~c. Subdivisions that were recorded prior to October 1, 2012, with a maximum of five lots exempted from the Adequate Public Facilities Requirements shall be permitted additional exempt lots not to exceed a total of seven lots. The total number of exempt lots may not exceed seven lots from any parcel of record as of February 23, 1988.~~

(08/05/15)

(08/05/15)

7-1.06 Requirements for a Subdivision

O. Non-Residential Subdivisions

- 1. Subdivisions which are non-residential in nature, such as commercial and industrial developments, shall conform to the standards established in the Calvert County Zoning Ordinance **and the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time.**

7-1.07 Subdivision Review Procedures

B. Preliminary Plan Review

(10/13/10)

8. Period of Validity

The approval of the Preliminary Subdivision Plan shall expire after three years from the approval date unless an extension is granted by the Planning Commission. Final plat approval may be delayed if schools and/or roads are determined to be inadequate. See **the Calvert County Code, Chapter 3 Section 7-1.05**, Adequate Public Facilities Requirements, **as amended from time to time**, and the policy adopted by the Planning Commission titled,

“Policies for Administering Subdivisions under the Adequate Public Facilities Ordinance for School Capacity”, for specific requirements.

- C. Final Plat Review
 - 6. Approval of the Final Subdivision Plat
 - a. The Department of Planning and Zoning shall review the Final Plat and verify approval of other appropriate County agencies, **including the Calvert County Code, Chapter 3 Adequate Public Facilities Requirements, as amended from time to time**, and compliance with all conditions of preliminary approval.

Article IV. PUBLIC ROADS

Appendix 1

A Traffic Impact Analysis (TIA) shall be required for any proposed subdivision, commercial industrial or institutional development, which generates 200, 2-way trips per day or generates 20 peak hour morning or evening trips on any local or State highway or at any intersection. This TIA shall include but not be limited to an analysis of the impact of the proposed development on the area transportation system as agreed to by the Director of Public Works or designee. The appropriate level of study is determined by the particulars of the project, the prevailing highway conditions, and the forecasted traffic. When a project's traffic impact to a highway facility can clearly be anticipated without a study and all parties involved are able to negotiate appropriate mitigation, a TIA may not be necessary.

The TIA shall be submitted and approved by the Director of Public Works or designee prior to the Planning Commission's conditional commercial site plan or preliminary subdivision approval, which shall meet the following guidelines:

- A. Preliminary Meeting. The applicant is required to meet with the Director of Public Works or designee and the State Highway Administration (SHA) prior to the preparation of the TIA to determine the scope of the TIA. The following should be discussed at this meeting:
 1. The study area including County and State highway facilities;
 2. Clarification, justification, and agreement on all assumptions used in the report;
 3. Approved preliminary subdivisions and commercial site plans within the study area, which will be included for estimation of background traffic;
 4. Future roadway construction/improvements in the area, which may impact the subject site; and
 5. Approved growth rate to apply to background traffic and to intersection approaches or movements which would be decided at this meeting.

If the applicant fails to comply with the technical requirements and the scope of the study outlined in the preliminary meeting, the applicant will be advised in writing that an addendum is needed. All issues regarding the TIA and the recommended improvements must be resolved prior to receiving preliminary subdivision or conditional site plan approval. If the project is delayed due to Chapter 3 of the Calvert County Code, the Adequate Public Facilities Ordinance, requirements, an updated TIA will be required within 6 months prior to final subdivision approval. An updated traffic study will also be required for a commercial or industrial site plan conditional approval if the traffic study data is over 2 years old prior to the developer taking the plan to the Planning Commission. At that time a determination will be made to decide whether additional improvements are warranted to meet Chapter 3 of the Calvert County Code, the Adequate Public Facilities Ordinance.

- B. Study Area. The designated study area will be proposed by an Engineering Professional Representative and approved by the Director of Public Works or designee. The study area will include all the existing County and State roads and intersections in all directions from each point of entrance of the site to the first intersection of a minor collector or arterial

road, as determined by the Director of Public Works or designee to reasonably reflect the impact upon public infrastructure. In the case of a collector road in a Town Center that is presently built to collector road standards as set forth in the Calvert County Road Ordinance then in effect, the road will be designated a collector road for the purpose of the traffic study. The study shall not exceed 2-road miles in all directions, except when a residential development or business or industrial use generates 1,500 or more trips per day. The required study area may be required to be expanded under these conditions. The Director of Public Works or designee may increase or decrease the scope of this study based on professional discretion.

- C. Design Year. The design year shall be the expected completion of the project, including actual construction of the project plus any time period added by other APFO constraints. Any changes within the preliminary subdivision plan or commercial site plan approval may be subject to a new TIA, as determined by the Director of Public Works or designee. The project may be analyzed in phases provided the Director of Public Works or designee approves.

A TIA shall be updated every 3 years or if the amount or character of traffic becomes significantly different than the original study. As determined by the Director of Public Works or designee, the impact studies shall be prepared for the ultimate design year and build-out of a project. If the build-out schedule extends more than three years, the study will be required to cover the initial three-year build-out in addition to the ultimate build-out. This study will be required to be updated every three years from the date of initial occupancy for residential or commercial uses until the final proposed construction if the actual construction does not meet the proposed ultimate schedule projection. The Director of Public Works or designee will decide if an updated study is required based on the increased volume or character of the traffic within the study area.

D. Traffic Data Requirements.

1. Existing Traffic. All existing traffic counts shall be conducted within a 12-month period with an annual growth factor determined by the Director of Public Works or designee prior to submitting the report. This growth factor is based on the average traffic volume of the latest 5-year period SHA Traffic Volume Maps.
 - a. The existing traffic consists of a 1-day peak hour, 15-minute interval, 3-hour a.m. and 3-hour p.m. turning movement volume count. Other peak hours (weekend) may be required by the Director of Public Works or designee to determine the significance of the traffic impacts generated by a project.
 - b. If a traffic signal is anticipated, a 12-hour, 15-minute interval turning movement volume count is required.
 - c. Vehicle counts should be conducted on Tuesdays, Wednesdays, or Thursdays, during the weeks not containing holidays. Vehicle counts should also be conducted in favorable weather conditions.
 - d. Seasonal and weekend variations in traffic should also be considered where appropriate (recreational routes, tourist attractions, etc.). School traffic should be a major consideration in the Count and additional counts may be requested to include this factor.

2. Trip Generation. The estimated trip generation for each land use shall be obtained by utilizing the Institute of Transportation Engineers (ITE) Trip Generation Manual, current edition. The land use code in the manual shall be indicated for each category and agreed upon at the preliminary TIA meeting. The use of local data may be utilized for land uses not compatible to the ITE Trip Generation Manual. When the proposed land used has a limited number of studies to support the trip generation rate ($r^2 < .75$) consultation between the Director of Public Works or designee and TIA preparer is recommended. If a commercial development is proposed, the trip generation volumes should be based on the actual uses if possible and not under the umbrella of general class of uses. No discount for internal trip capture should be allowed to the limited data samples available or when using "general" types of development.

The fitted curve equation shall be used for all trip generation estimates except for land used where the equation is not available or the Director of Public Works or designee recommends the weighted average rate.

In addition to the peak hour trip generation, the daily trip generation for all uses shall be included in the report. Commercial developments weekend trip generation, and capacity analysis shall be included in the report for a single peak hour if requested by the Director of Public Works or designee. The peak hour trip generation for townhouses shall be calculated by using the residential condominium/townhouse category.

Pass-by trip reduction factors on major or minor arterials may be considered for commercial developments upon concurrence with the Director of Public Works or designee based on TIA rates prior to preparation of the report. Each case will be considered for the possible pass-by trip reduction rate on an individual basis. Pass-by trips are only considered for retail-oriented developments. "Pass-by percentages greater than" the following land use listing will require consultation for acceptance, and justification by the preparer of the study. ITE percentages may be used in lieu of the following:

Recommended Pass-by Percentages		
Land Use		Pass-by %
Shopping Center		
	Larger than 400,000 GLA	20
	100,000 to 400,000 GLA	25
	Smaller than 100,000 GLA	35
Convenience Store		40
Discount Club/Warehouse Store		20
Fast Food Restaurant		40

Sit Down Restaurant		15
Service Station		45
Supermarket		20

* GLA = Gross Leasable Area

It should be noted that the full number of trips should be shown (and analyzed) at the site driveways - pass-by reduction would only affect the amount of traffic at, and "impact" to, non-driveway intersections within the study area.

"If a study is being prepared for an existing use, the trip generation for the expansion should be based on driveway counts for the existing facility."

- E. Total Future Traffic Estimates. The documented total future traffic in the report for assessing the impact of a residential subdivision and commercial site plan project shall include:
1. Background traffic consisting of:
 - a. The existing traffic adjusted by a growth factor for the buildout year, based on the past 5-year SHA Traffic Volume Maps.
 - b. The estimated trip generation of all preliminary subdivision plans or commercial site plans within the previous two-year period located within the designated study area.
 2. The estimated trip generation to and from the site.

Any approved preliminary plan proceeding to final site plan or final subdivision approval after the 3-year period from date of preliminary subdivision plan approval or conditional site plan approval shall submit a new TIA for consideration, subject to all the provisions of this document. Phased development projects will be required to submit a TIA for each phase of development if the total average daily vehicle trip accumulation of all phases exceeds 200 two-way trips for all the phases approved and/or under review to date or developments which exceed 20 peak hour trips. This is applicable for both commercial and residential development.

- F. Trip Distribution and Assignment. Trip generation, distribution, and assignment shall be anticipated for the year of the project or phase reaches completed construction. Any of the following methodologies are acceptable for the purposes of trip distribution only after concurrence from the Director of Public Works or designee.
1. Gravity model,
 2. Utilization of demographic data,
 3. Current directional distribution provided that the land use and transportation system would not change prior to the project build out.

Justifications of the distribution modeling should be discussed at the preliminary meeting with the Director of Public Works or designee. Assignment of traffic to the network shall be in accordance with the percentage distribution and type of transportation facility. The

inbound/outbound traffic may not always have similar distributions or assignments. These items shall be discussed and agreed to prior to the preparation of the report.

- G. Analysis. The capacity analysis shall be performed for all intersections and roadways in the selected network. The analysis shall be in accordance with the methodologies contained in the current edition of the Highway Capacity Manual (HCM). Analysis may be required after consultation with the Director of Public Works or designee. This may include:
1. Weaving areas;
 2. Multi-lane Highways — HCM;
 3. Two—lane Highways — HCM;
 4. Signalized Intersections — HCM, Traffix, Syncro; and
 5. Unsignalized Intersections — HCM.

Unsignalized intersections not meeting the adopted level of service standards may be required to complete a signal warrant analysis.

Critical lane analysis may be requested by the State Highway Administration but is not an acceptable alternative to the HCM analysis.

Progression analysis may be required for an impacted minor collector or arterial road containing two or more traffic signals within a mile. Passer II, "transit 7F", "Syncro" or Highway Capacity Manual (HCM) programs shall be utilized for the purpose of progression analysis.

Gap studies will be required for multi-lane highways at non-signalized median crossovers where the turning movements through the median area exceed 400 vehicles during the am or p.m. peak period. Delays, holding lane capacity, exclusive lanes and adequate median storage should be discussed within the study.

All intersections shall be analyzed for off-site/on-site queuing to determine length of left turn lane and storage area.

An accident review study shall be conducted where 6 accidents have occurred within 1000' on any road segment or 12 accidents have occurred within an intersection area (500' on each leg) over the last 36-month period using the latest SHA data.

The TIA shall include capacity analysis for all identified locations within the study area with and without the proposed development to determine the site's impact and the needed improvements.

- H. Recommendations. The TIA should provide the nexus between a project and the traffic impacts to a County or State highway roadways. The TIA should also establish the rough proportionality between mitigation measures and traffic impacts. The mitigation measures must be included in the traffic impact analysis, as this determines if a project's impacts can be eliminated or reduced to a level of insignificance. " Delay and v/c ratio will also be

considered as a development could increase delay but still maintain the current level-of-service." The TIA report shall include but not be limited to the following recommendations to mitigate the traffic impact on the area transportation system:

1. Widening of roadways, intersections and needed rights-of-way;
2. Access points shall be located and designed in a way to qualify for a traffic signal or otherwise operate at a minimum acceptable level of service without a traffic light;
3. Location of traffic control devices for signalization including a warrant analysis based on the Manual on Uniform Traffic Control Devices (MUTCD) requirements; and
4. Specific off-site and on-site improvements.

A TIA without specific recommendations to mitigate negative impacts shall not be considered complete. Reduction of the current level of service is considered a negative impact. The consultant may include roadway improvements proposed by the SHA, County or other developer only if the projects are funded and scheduled for construction or bonded as part of an Access Permits Agreement for a vicinal development. For a signalized intersection, the acceptable level-of-service must be for each approach in addition to the overall intersection level-of-service.

The consultant must perform a preliminary constructability review of any proposed roadway improvements. The review should consider right-of-way, utility relocations, grading impacts to adjacent properties, etc. If a mitigation proposal does not appear feasible an alternative measure must also be considered.

- I. Report. The TIA report should include the following information:
 1. Executive Summary;
 2. Table of Contents;
 3. Introduction, including:
 - a. Explanation of project/purpose of report;
 - b. Area map showing site location;
 - c. Site Plan including all access to local and State highways;
 - d. Vicinity Map showing circulation of all local and State highways;
 - e. Land Use and Zoning; and
 - f. Phasing Plan including proposed dates of project (phase) completion;
 4. Existing conditions, including:
 - a. Traffic counts and analysis; and
 - b. Existing lane configuration sketch;
 5. Background conditions, without the proposed development, including:
 - a. Annual growth in traffic to build year;
 - b. Traffic generated by other approved developments;
 - c. Background analysis (background traffic = existing traffic + growth in existing traffic + approved development); and
 - d. Background analysis with approved/funded highway projects;
 6. Projected conditions, with proposed development with clearly stated assumptions, including:
 - a. Existing and projected traffic volumes, facility geometry (storage lengths), and traffic controls including signal phasing and multi-signal progression where

- appropriate;
- b. Traffic generated by the proposed development (i.e. site generated traffic) at build out, and/or at any significant stage of development including references;
 - c. Total traffic analysis (total traffic = existing + growth + approved development + site generated);
 - d. Analyze total traffic with improvements; and
 - e. LOS and Warrant analysis, including existing conditions, cumulative conditions and full buildout of general plan conditions with and without the project;
7. Conclusions/recommendations:
- a. Explain results of analysis including LOS and appropriate v/c ratios;
 - b. Recommend improvements to mitigate the site traffic impacts including dates of proposed mitigation measures;
 - c. Define responsibilities for impending mitigation measures; and
 - d. Cost estimates for mitigation measures if it is a shared responsibility;
8. Appendices:
- a. Description of traffic data and how it was collected;
 - b. Description of methodologies and assumptions used in analysis; and
 - c. Worksheets used in analysis (i.e., signal warrant, LOS, traffic count, etc.).
- J. Exceptions. The Director of Public Works or designee can increase or decrease the scope of work at the preliminary project meeting. A TIA can be required by the Director of Public Works or designee, even if the average trips are less than 200 2-way trips per day or generates 20 peak hour morning or evening trips on any local or State highway or at any intersection based on mitigating circumstances, field observations, or professional judgement.