



Prince George's County, Maryland

Module 2

Zoning Ordinance and Subdivision
Regulations Rewrite
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Public Review Draft

C L A R I O N

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Sec. 24-3.500: Public Facility Adequacy
Sec. 24-6.200: Definitions

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Division 3: Subdivision Standards

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Division 24-3: Subdivision Standards - Table of Contents

Sec. 24-3.500	Public Facility Adequacy	24-3—1
24-3.501.	Purpose	24-3—1
24-3.502.	Applicability.....	24-3—1
24-3.503.	Certificate of Adequacy.....	24-3—3
24-3.504.	Public Facility Adequacy-Generally	24-3—6
24-3.505.	Transportation Adequacy.....	24-3—7
24-3.506.	Water and Sewer Adequacy.....	24-3—10
24-3.507.	Police Facility Adequacy	24-3—11
24-3.508.	Parks and Recreation Adequacy.....	24-3—12
24-3.509.	Schools Adequacy	24-3—13

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Sec. 24-3.500 Public Facility Adequacy

24-3.501. Purpose¹

This purpose of this Section is to:

- A. Ensure that infrastructure necessary to support proposed new development is built at the same time as, or prior to, that proposed new development;
- B. Establish level of service (LOS) standards for Public Facilities including transportation, sewer and water, police, parks and recreation, and schools that provide clear guidance to the County and applicants about when facilities are considered adequate, and create guidance for future infrastructure investments needed to accommodate existing residents and anticipated growth;
- C. Establish LOS standards that reflect policy guidance of the applicable functional master plan for each facility and *Plan 2035*;²
- D. Establish LOS standards that encourage development in the transit-oriented/activity center zones;³ and
- E. Reevaluate approved development that has received adequate public facilities approvals prior to *[insert effective date of*

¹ *Plan Prince George's 2035 Approved General Plan (Plan 2035)* Policy PD1.10 states: "PD1.10 Amend the Level of Service (LOS) standards or exempt the Downtowns from the adequate public facility transportation requirements to encourage development in transit locations. Since Downtowns rely on multimodal transportation, bike and pedestrian standards should not be reduced."

² *Plan 2035*, Policy PF6.7.

³ *Plan 2035*, Policy PF11.1.

these Subdivision Regulations] for projects that have not been built in a timely manner.⁴

24-3.502. Applicability⁵

A. Applications / Approvals Subject to this Section

This Section applies to:

- 1. An application for a preliminary plan of subdivision;
- 2. An application for a final plat for subdivision when specifically required in this Section; and
- 3. An application for a zoning map amendment / basic plan, when specifically required in this Section.

B. Applicability of Public Facility Adequacy Standards

- 1. This Section establishes Public Facility adequacy standards. They are summarized in Table 24-3.502: Summary of Public Facility Adequacy Standards. The standards are established in Secs. 24-3.504, Public Facility Adequacy-Generally, through 24-3.509, Schools Adequacy, below.⁶

⁴ *Plan 2035*, Policy LU4.2. This policy also calls for a "working group to address the magnitude of residential development in the pipeline in Established Communities and Rural and Agricultural Areas."

⁵ This revises Sec. 24-122.01 of the current Subdivision Regulations.

⁶ As discussed in the ERR this Section only establishes public facility adequacy standards (APF standards) for transportation, water and sewer, police, parks and recreation, and schools. It does not address park dedication, which is different from the APF standards and will be addressed in other sections.

Table 24-3.502: Summary of Public Facility Adequacy Standards ⁷			
Facility	Area of Applicability	Level of Service	Impact Area
Transportation	Transportation Service Area 1 (PI Plan Prince George's 2035 Approved General Plan (Plan 2035, Map 14))	RTO and LTO zones - exempt All other areas - LOS "E"	See <i>Transportation Review Guidelines</i>
	Transportation Service Area 2 (Plan 2035, Map 14)	LOS "D"	See <i>Transportation Review Guidelines</i>
	Transportation Service Area 3 (Plan 2035, Map 14)	LOS "C"	See <i>Transportation Review Guidelines</i>
Sewerage	Sustainable Growth Tier I in the <i>Ten Year Water and Sewerage Plan</i>	All residential subdivisions shall be served by public sewer	See <i>Ten Year Water and Sewerage Plan</i>
	Sustainable Growth Tier II in the <i>Ten Year Water and Sewerage Plan</i>	All residential subdivisions shall be served by public sewer; except a minor subdivision may be served by on-site sewerage disposal systems.	
	Sustainable Growth Tier III in the <i>Ten Year Water and Sewerage Plan</i>	All residential subdivisions shall be served by on-site sewerage disposal systems.	
	Sustainable Growth Tier IV in	All residential subdivisions in a minor subdivision shall be	

⁷ The current level of service (LOS) standards established in the Guidelines are not based on *Plan 2035*; instead they use the tier system from the 2002 General Plan. These revisions allocate the LOS based on the policy direction in *Plan 2035*.

Table 24-3.502: Summary of Public Facility Adequacy Standards ⁷			
Facility	Area of Applicability	Level of Service	Impact Area
	the <i>Ten Year Water and Sewerage Plan</i>	served by on-site sewerage disposal systems. A residential major subdivision is not permitted.	
Water	See <i>Ten Year Water and Sewerage Plan</i>	<i>Ten Year Water and Sewerage Plan</i>	
Police	All locations	Response times for service are within 25 minutes total for non-emergency calls, and 10 minutes total for emergency calls in each police district.	See <i>Public Safety Guidelines</i>
Parks and Recreation	Transit-Oriented/Activity Center zones	2.5 acres per 1,000 residents	Service Areas as identified in Formula 2040: Functional Master Plan for Parks, Recreation and Open Space
	All other zones	15 acres per 1,000 residents	
Schools	All locations	Students will not exceed 105 percent of state rated capacity of cluster	School clusters

- An application listed in Sec. 24-3.502.A above shall not be approved until a Certificate of Adequacy or Conditional Certificate of Adequacy is approved in accordance with the procedures and standards of this Section.

24-3.503. Certificate of Adequacy⁸

A. Applicability

1. A Certificate of Adequacy or Conditional Certificate of Adequacy for each public facility subject to this Section (the review for each public facility to this Section shall be consolidated) shall be reviewed and approved, approved with conditions, or denied in accordance with the procedures and standards of this Section, prior to approval of:⁹
 - a. A preliminary plan for subdivision;
 - b. A final plat where a preliminary plan for subdivision was approved before [redacted] [insert the effective date of these Subdivision Regulations], unless –the conditions set out in Table 24-3.503 below apply, or

Table 24-3.503: Final Plats Exempt from Certificate of Adequacy Review		
The following has occurred within the preliminary plan for subdivision	Preliminary Plat approved	
	Before [insert ten years before effective date]	After [insert ten years before effective date]
A final plat is recorded for at least the following percent of the lots, and	90%	50%
Construction is completed for single-family or two-family dwelling units on at least the following percent of the lots on the approved preliminary plan for subdivision, and	60%	30%
Construction is completed on the following percent of gross floor area for all lots with nonresidential or multi-family uses.	75%	40%

- i. The Planning Director determines the applicant has acquired vested or contractual¹⁰ rights that preclude a new adequacy determination in accordance with this Section under state law;¹¹
/12

⁸ This Subsection states who is required to receive a Certificate of Adequacy or Conditional Certificate of Adequacy.

⁹ The Certificate of Adequacy or Conditional Certificate of Adequacy is required to be approved prior to approval of the preliminary plan for subdivision. It may be considered concurrent with the application for the preliminary plan for subdivision, but is a separate approval that runs with the development, subject to the requirements of this Section and the conditions of approval. A certificate is required to be approved for each Public Facility type that is subject to be evaluated prior to the subdivision or other development approval, but the evaluations will be handled concurrently and conducted by the Planning Director.

¹⁰ *County Comm'rs v. Forty West Builders, Inc.*, 178 Md. App. 328, 941 A.2d 1181 (2008) states that the terms of a "Concurrency Management Certificate" creates contractual rights that preclude the later imposition of adequacy requirements to a new development. The proposed Certificate of Adequacy is similar to a "Concurrency Management Certificate," so the same concept applies.

¹¹ The determination would be appealable with the application that the certificate is tied to. Under the new procedures, for a minor subdivision it would be the Planning Board; for a major subdivision, the decision could be appealed to the courts.

¹² Another option to this could be to establish an administrative procedure requiring a permittee who believes they have a vested right in an APF determination approved prior to the official date of the rewritten Subdivision

- c. Zoning Map Amendment or Planned Development Basic Plan approval to a:
 - i. Non-residential base zone; or
 - ii. Center zone or planned development zone; or
- d. Any building permit where a Planned Development Basic Plan or site plan was approved at least ten years prior to ____ [*insert the effective date of these Subdivision Regulations*], unless:
 - i. Building permits are issued and remain effective for at least 80 percent of the gross floor area subject to the prior Planned Development Basic Plan or site plan approval,
 - ii. Construction has been completed on at least 60 percent of the gross floor area on the project subject to the or site plan approval, or
 - iii. The Planning Director determines that the applicant has acquired a vested or contractual right that precludes a new adequacy determination, in accordance with this Section, under state law.¹³

Regulations to request a review of whether they have such vested rights. The request would have to be submitted within a certain period of time after adoption of the provision (e.g., six months). If the request for the vested rights determination is not made, the applicant forfeits the APF determination. If the request is made, then a review and determination of whether the APF determination is vested is made by an administrative official.

¹³ The determination would be appealable with the application that the certification is tied to. Under the new procedures, major site plans would be appealable to the District Council while minor site plans are appealable to the Planning Board.

B. Review Procedure for Certificate of Adequacy or Conditional Certificate of Adequacy

1. An application for a Certificate of Adequacy or a Conditional Certificate of Adequacy shall be initiated by submitting an application to the Planning Director in a form established by the Planning Director in the Procedures Manual, along with any draft documentation relating to the mitigation of inadequate Public Facilities, if applicable.
2. After determining the application is complete (see Sec. 24-<>), the Planning Director shall forward the application to the appropriate Departments for review and comment, and after receipt of their comments prepare a written report that:
 - a. Identifies existing and planned capital improvements and any available capacity of the Public Facilities that serve the proposed development in accordance with the terms of this Section;
 - b. Identifies capital improvements funded and assumed to be in place to serve the proposed development;
 - c. Identifies any previously dedicated, constructed, or funded Public Facility that would mitigate the impacts of the proposed development;
 - d. Sets forth findings and conclusions related to the impact of the proposed development on available capacity; and
 - e. Determines whether there is available capacity for each Public Facility sufficient to accommodate the

24-3.503.C Expiration of Certificate of Adequacy or Conditional Certificate of Adequacy

proposed development in accordance with the standards of this Section.

3. Based on the evaluation and determination in Sec. 24-3.503.B.2 above, the Planning Director shall either:
 - a. Issue a Certificate of Adequacy if all Public Facilities are adequate;
 - b. Issue a Conditional Certificate of Adequacy if:
 - i. All or some of The Public Facilities are inadequate at the time of application; and
 - ii. The applicant has agreed to provide mitigation, reduce project impact, or phase development so that the applicable Public Facilities will meet the adopted LOS standard for the appropriate Public Facility when the impacts of the development occur; or
 - c. Deny the Certificate of Adequacy if the Public Facilities are inadequate, and the applicant has not agreed to conditions that would mitigate or reduce their impacts.
4. A Conditional Certificate of Adequacy shall incorporate conditions consistent with Sec. 24-3.503.B.3.b.ii above, along with the applicant's consent to those conditions.
5. If the Planning Director denies a Certificate, attaches a condition, or requires mitigation, the applicant may:
 - a. Withdraw the application and seek a new Certificate; or
 - b. Appeal the Planning Director's decision to the Planning Board (see Sec. <>).

C. Expiration of Certificate of Adequacy or Conditional Certificate of Adequacy

1. Preliminary Plan for Subdivision

For a Certificate approved for a preliminary plan for subdivision, the applicant shall commence construction on:

- a. At least one lot within one year after approval of the preliminary plan; and
- b. On at least 25 percent of the lots within two years after approval of the preliminary plan.

2. Final Plats

For a Certificate approved for a final plat for subdivision, the applicant shall:

- a. Record the final plat in a timely manner (see Sec. 24- <>); and
- b. Commence construction on:
 - i. At least one lot within one year after approval of the final plat; and
 - ii. On at least 25 percent of the lots within two years after approval of the final plat.

3. Site Plans

For a Certificate approved for a site plan, the applicant shall:

- a. Obtain issuance of a building permit for development approved as part of the site plan within one year after the Certificate is issued; and

- b. Commence construction on at least 25 percent of the gross floor area of development approved within two years after approval of the site plan.

4. Expiration

An approved Certificate automatically expires if the applicant does not commence construction, record a final plat, or obtain a building permit within the time limits established in Secs. 24-3.503.C.1 through 24-3.503.C.3 above.

24-3.504. Public Facility Adequacy-Generally

A. Measuring LOS Standard

1. Development subject to this Section shall comply with the LOS standard for each type of Public Facility that applies to the development.
2. The LOS standards for each Public Facility are summarized in Sec. 24-3.502.B, and established in Secs. 24-3.504 through 24-3.509 for each individual type of Public Facility.
3. The LOS standard for each proposed development subject to this Section shall be measured within the Impact Area for each type of Public Facility. The Impact Area may vary based on where the proposed development or the Public Facilities are located.
4. If the Public Facilities needed to meet the LOS standard are not in place and operational at the time of the proposed development, the County may include Planned Capacity in making the determination of adequacy (for each individual type of Public Facility).

B. Determining Whether Public Facilities are Adequate

Each type of Public Facility within the Impact Area is adequate if the demand generated by the development proposed in the application is less than the Available Capacity. Available Capacity is calculated as follows:

1. Add Capacity within the Impact Area based on the LOS standard for the individual type of Public Facility; and
2. Where allowed by Secs. 24-3.504 through 24-3.509 below, as appropriate, and the applicable Guidelines, add Planned Capacity that will alleviate any inadequacy for the individual Public Facility; and
3. Subtract Used Capacity and Reserved Capacity.

C. Limitations on Building Permits Issued in Areas Where Public Facilities Do Not Meet the Adopted Level of Service Standards¹⁴

1. In areas of the County where Public Facilities are inadequate, are approaching inadequacy, or a need to finance Public Facilities exists, the County Council may, by Resolution, establish a building permit limit prescribing the number of building permits to be issued in that area over a period of time.
2. In those areas, the Resolution shall:

¹⁴ There was a request that we explore ways to establish limits on development approvals in area where Public Facilities are inadequate or are approaching inadequacy. This provision addresses that issue. It is similar to a provision in the Carroll County APF regulations that allows the County to temporarily slow the pace of development approvals in places approaching Public Facility capacity under the APF regulations. While the limitations on development approvals are in place, it also requires that the County explore steps to remedy the Public Facility deficiencies.

- a. Determine the total number of building permits that may be issued each year and the number of building permits that may be allocated to each subdivision or development;
 - b. Establish a time period, not to exceed six years, during which the building permit limitations will remain in place; and
 - c. Initiate a planning process that identifies financing, efficiencies, or similar mechanisms to remedy or avoid the Public Facility inadequacy in the area.
3. Building permit reservations are nontransferable from one lot to another.

24-3.505. Transportation Adequacy¹⁵

A. Applicability

1. A Certificate of Adequacy for transportation shall be reviewed and approved, approved with conditions, or denied in accordance with Sec. 24-3.503, Certificate of Adequacy.
2. To gain approval of the Certificate, the applicant shall demonstrate the proposed development complies with

¹⁵ This section builds on Sec. 24-124 of the current Subdivision Regulations, with some revisions. While the ERR (page IV-56) has this Section codified as Section 24-3.600 (which puts it outside of the APF provisions), this codifies Road Adequacy with the rest of the APF standards. Otherwise, we have police, water/sewer, and parks and recreation here and road adequacy in a separate section. Also, as discussed in the ERR, Sec.24-124.01 (requiring adequate public pedestrian and bikeway facilities) will be replaced by new standards in the Zoning Ordinance that addresses these issues. However, the County can consider the availability of bike and pedestrian infrastructure as mitigation for anticipated trips, or as a reduction in traffic impacts.

the LOS standards of Sec. 24-3.505.B below, provides mitigation (if applicable), and complies with the other relevant requirements of this Subsection.

B. Adopted LOS Standard

Adequate transportation facilities shall be available to accommodate or offset (through Alternative Trip Capture) the vehicular trips within the Impact Area surrounding the development subject to the requirements of this Section, as defined by the *Transportation Review Guidelines*¹⁶. This standard is met if:

1. Major Intersections and Major Roadways within the Impact Area have sufficient capacity to accommodate the vehicular trips generated by the proposed development at or below the minimum peak-hour LOS standard identified in Sec. 24-3.502.B and this Subsection;
2. The applicant reduces project impacts to a level so that the adopted LOS standard is maintained by any combination of the following:
 - a. Reducing the number of dwelling units or floor area;
 - b. Incorporating alternative trip capture; or
 - c. Incorporating a mix of uses that reduces trips through internal capture, as defined in the *Transportation Review Guidelines*;

¹⁶ Deletes the term “access” (i.e., “access roads”). Roads in the Impact Area/study area may be affected by a proposed development even if they do not directly access a proposed development.

3. Transportation improvements or trip reduction programs that are adequately funded by the applicant¹⁷ or an existing revenue source to alleviate any inadequacy in the adopted LOS standard within the Impact Area; or
4. Any combination of the requirements listed above will ensure that the adopted LOS standard is met.

C. Availability

Any transportation improvements within the Impact Area that are counted as Available Capacity shall be:

1. Operational at the time the application for a Certificate is submitted; or
2. Included on an adopted and approved functional master plan and construction scheduled with 100 percent of the construction funds allocated in the adopted County Capital Improvement Program (County CIP) or in the current State Consolidated Transportation Program (State CTP);¹⁸ or
3. Incorporated in a specific County or State Public Facilities Financing and Implementation Program, including the County CIP or State CTP with construction scheduled with 100 percent of the construction funds allocated; or
4. Fully funded by the applicant and the County and/or the State government (this includes transportation facilities that are part of the Surplus Capacity Reimbursement

Procedure, as defined in the *Transportation Review Guidelines*); or

5. There is a proposal for a transportation facility on a plan being considered by the U.S. Department of Transportation and/or Federal Highway Administration or Federal Transit Administration, which is funded for construction within the next 10 years. (The Planning Director may condition the approval of the proposed development on a construction schedule that minimizes any inadequacy.)

D. Mitigation

Mitigation shall be based on projected traffic service at the following levels:

Table 24-3.505.D Mitigation Standards ¹⁹	
Projected Traffic Above the Adopted LOS [1]	Mitigation
≥ 25 percent	<p>May require that any physical improvement or trip reduction programs participated in, or funded by, the applicant shall fully abate the impact of all traffic generated by the proposed development in the Impact Area.</p> <p>Following the development authorized by the approved Application and implementation of the approved mitigation action, the total traffic service will be reduced to no higher than 25 percent above the acceptable peak-hour service level threshold as defined in the <i>Transportation Guidelines</i>.</p>

¹⁷ Replaces subdivider or his heirs, successors, and assigns.” The definition of “applicant” includes the requirement that APF conditions bind the applicant’s successors.

¹⁸ If the improvement is in the County CIP but would not be in the functional master plan, it would not be counted for purposes of measuring capacity.

¹⁹ This is based on Sec. 24-124(a)(6) of the current Subdivision Regulations.

Table 24-3.505.D Mitigation Standards ¹⁹	
Projected Traffic Above the Adopted LOS [1]	Mitigation
< 25 percent	May require that any physical improvements or trip reduction programs fully funded by the applicant shall fully abate the impact of 150 percent of all vehicular trips generated by the proposed development in the Impact Area. Following the development of the proposed development and implementation of the mitigation action, the total traffic service within the Impact Area will be reduced to no lower than the acceptable peak-hour service level threshold defined in the <i>Transportation Guidelines</i> .
0-10 percent above the LOS + and proposed development generates less than 25 A.M. or P.M. peak-hour trips	May require the applicant to provide the pro rata cost of the physical improvements necessary to alleviate the Inadequacy.
NOTES [1] The adopted LOS is the acceptable peak-hour service level threshold as defined in the <i>Transportation Guidelines</i> .	

E. Offsets for Transit, Bike, and Pedestrian Facilities²⁰

1. Generally

The applicant may reduce the number of vehicular trips generated by a proposed development in a traffic impact study by including Alternative Trip Capture. Such features

²⁰ This section builds on Sec. 24-124.01 of the current Subdivision Regulations, which may be replaced by standards in the Zoning Ordinance. In this Section, the availability of non-road facilities, location in the transit-oriented/activity center zones, other locations that are not auto-dependent, and mixed-use pedestrian-oriented development patterns will be considered as factors in reducing vehicular trips. Note that this provision deletes streetlights and street furniture, which do not add road capacity. These items will be addressed in Subtitle 27.

include integrated sidewalk, trail, and bikeway networks to divert as many trips as possible from automobile travel and increase the multimodal accessibility and attractiveness of trips to transit stops, schools, parks, libraries, stores, services, and other destinations for all users. These concepts are further articulated in the "complete streets" principles and policies set forth in the *Approved Countywide Master Plan of Transportation*.

2. Transit, Bike, and Pedestrian Infrastructure²¹

The *Transportation Guidelines* shall incorporate availability and capacity standards for transit, pedestrian, and bikeway facilities that an applicant may consider as mitigation toward APF impacts. These facilities shall include:

- a. Fixed rail transit stations, bus shelters, and other transportation facilities;
- b. Sidewalks and pedestrian crossings at intersections; and
- c. Multi-use trails, bike paths, and/or pedestrian pathways and crossings.

3. Planned Improvements-Alternative Trip Capture

If the proposed development incorporates transit, bicycle, or pedestrian facilities in its traffic impact study, the applicant shall demonstrate prior to the issuance of a building permit for development that all required adequate pedestrian and bikeway facilities are:

²¹ These are required as mitigation in Sec. 24-124.01 of the current Subdivision Regulations. This section allows the applicant to consider these facilities in-lieu of roads.

- a. In place and fully operational; or
- b. Have full financial assurances, have been permitted for construction through the applicable operating agency's access permit process, and have an agreed-upon timetable for construction and completion with the appropriate operating agency.²²

24-3.506. Water and Sewer²³ Adequacy

A. Applicability

1. A Certificate for Water and Sewer shall be reviewed and approved, approved with conditions, or denied in accordance with Sec. 24-3.503, Certificate of Adequacy.
2. To gain approval of the Certificate for Water and Sewer, the applicant shall demonstrate the proposed subdivision complies with the LOS standards of Secs. 24-3.506.B and 24-3.506.C below, provides adequate mitigation (if appropriate), and complies with all other relevant requirements of this Section.

B. Adopted LOS Standard-Water and Sewer²⁴

In accordance with the Sustainable Growth and Agricultural Preservation Act (Map 3 of *Plan 2035* Prince George's County Sustainable Growth and Agricultural Preservation Act of 2012 (SB236) Map, Adopted November 20th, 2012, as may be

amended from time to time), the water and sewer LOS standard for residential subdivisions is:

1. Sustainable Growth Tier I

All lots in the Sustainable Growth Tier I in the *Ten Year Water and Sewerage Plan* shall be served by public sewer.

2. Sustainable Growth Tier II

All lots in the Sustainable Growth Tier II in the *Ten Year Water and Sewerage Plan* shall be served by public sewer, except for lots in a minor subdivision which may be served by on-site sewerage disposal systems.

3. Sustainable Growth Tier III

All lots in the Sustainable Growth Tier III in the *Ten Year Water and Sewerage Plan* shall be served by on-site sewerage disposal systems.

4. Sustainable Growth Tier IV

All lots in a subdivision in the Sustainable Growth Tier IV in the *Ten Year Water and Sewerage Plan* shall be served by on-site sewerage disposal systems. Lots in a major subdivision shall not be served by on-site sewerage disposal systems.

C. Availability

For purposes of determining water and sewer adequacy, the location of the property in Sustainable Growth Tiers I and II within a service area of the *Ten Year Water and Sewerage Plan* is deemed sufficient evidence of the immediate or planned availability of public sewer and water, and compliance with the LOS standard for the provision of public sewer and water.

²² This provision is adapted from Sec. 24-124.01 (g) of the current Subdivision Regulations.

²³ This provision carries forward and revises Sec. 24-122.01(b) of the current Subdivision Regulations.

²⁴ Omits reference to applications filed on or after October 1, 2012, which is no longer needed.

24-3.507. Police Facility Adequacy²⁵

A. Applicability

1. A Certificate for Police Facilities shall be reviewed and approved, approved with conditions, or denied in accordance with Sec. 24-3.503, Certificate of Adequacy.
2. To gain approval of a Certificate for Police Facilities, the applicant shall demonstrate the proposed subdivision complies with the adopted LOS standards of Sec. 24-3.507.B below, provides adequate mitigation (if appropriate), and complies with all other requirements of this Section.

B. Adopted LOS Standard-Police

1. The population and/or employees generated by the proposed subdivision, at each stage, shall not exceed the service capacity of existing police stations, in accordance with the *Public Safety Guidelines*.
2. To demonstrate compliance with this LOS standard, the Chief of Police shall submit the following information, on an annual basis, to the Planning Director:²⁶
 - a. A statement reflecting adequate equipment pursuant to studies and regulations used by the County, or the

Public Safety Master Plan for police stations in the vicinity of the area of the proposed subdivision; and

- b. A statement by the Police Chief that the rolling 12-month average, adjusted monthly, for response times in the vicinity of the proposed subdivision is a maximum of 25 minutes total for non-emergency calls and a maximum of 10 minutes total for emergency calls for service. For the purposes of this Subsection, response time means the length of time from the call for service until the arrival of Police personnel on-scene or other police response, as appropriate.

3. Sec. 24-3.507.B.2 above, does not apply to commercial or industrial applications for preliminary plans.²⁷

C. Availability and Mitigation

If facilities and personnel at existing police stations are not adequate to meet the adopted LOS standard for Police Facilities, the Planning Director shall find that:

1. Adequate police facilities available to serve the population and/or employees generated by the proposed subdivision are programmed with 100 percent of the expenditures for the construction of the facility in the adopted County CIP in accordance with the *Public Safety Guidelines*; or
2. That adequate police facilities and improvements are participated in or funded by the applicant on a pro-rata basis, including participation in a specific Public Facilities Financing and Implementation Program (as defined in

²⁵ This builds on Sec. 24-122.01(c) of the current Subdivision Regulations.

²⁶ The personnel standard in Sec. 24-122.01(e)(1)(B) of the current Subdivision Regulations is deleted. The standard stages the personnel over three time periods, with the last one ending on December 31, 2006. This uses the last time period. CR-069-2006 (8/10/2006) "temporarily" suspends the staffing requirements of the Adequate Public Safety Facilities Test, and we do not advise this standard because staffing can change from year to year. This is an unusual standard.

²⁷ This is carried this forward. From the current Subdivision Regulations.

Subtitle 27) that will alleviate any inadequacy in accordance with the *Public Safety Guidelines*.

24-3.508. Parks and Recreation Adequacy²⁸

A. Applicability

1. A Certificate for Parks and Recreation Adequacy shall be reviewed and approved, approved with conditions, or denied in accordance with Sec. 24-3.503, Certificate of Adequacy.
2. To gain approval of the Certificate Of Parks and Recreation Adequacy, the applicant shall demonstrate the proposed development complies with the LOS standards of Sec. 24-3.508.B below, provides adequate mitigation (if appropriate), and complies with all other relevant requirements of this Subsection.

B. Adopted LOS Standard for Public Parks and Recreation

1. The adopted LOS standard for Parks and Recreation is: –
 - a. Within the Transit Oriented/Activity Center zones, and in the Employment Area as identified in the General Plan: 2.5 acres of improved public parks per 1,000 residents and equivalent units of nonresidential or mixed-use floor area.²⁹ These lands shall consist of at least:

²⁸ Formula 2040, Policy 1.7, provides for the County to “develop an adequate public facilities test that integrates parks with other public facility needs generated by new development.” This section creates language to insert the parks LOS standards to be developed by the County for new development.

²⁹ Equivalent units of nonresidential or mixed-use floor area would be established in an equivalency table which would be included in the Park and Recreation Facilities Guidelines. We outline below an example equivalency table calculation

- i. 0.5 acres per 1,000 residents for small urban parks, including pocket parks, plazas, commons/greens, squares, and neighborhood parks; and
 - ii. One acre per 1,000 residents for larger urban parks, including parks at schools, community parks, resource parks, and waterfront parks; and
 - iii. One acre per 1,000 residents for greenways, linear parks, and special facilities.
- b. Fifteen acres of improved public parks per 1,000 residents and equivalent units of nonresidential or mixed-use floor area in all other areas.
2. The Department of Parks and Recreation, in consultation with the Planning Department, shall develop *Park and Recreation Facilities Guidelines* that establish:
 - a. A methodology for computing the number of residents or equivalent dwelling units for applications subject to this Subsection;

used by another community. An equivalency table needs to be prepared for this standard. The Park and Recreation Facilities Guidelines can base equivalencies on a variety of variables that measure human activity, such as trip generation or energy consumption. For example, assume that we use trip generation as the variable, and that a residential dwelling unit generates 10 average daily trips (ADT) and average household size is 2.5 persons. Assume that an office generates 6 trips ADT per 1,000 square feet. This means that an “equivalent dwelling unit” (EDU) for 1,000 square feet of office space is 0.6 (6 ADT ÷ 10 ADT). Applying this to the 2.5 acres / 1,000 residents level of service, residential dwelling units would require 2.5 acres per 400 dwelling units (1000 ÷ 2.5), and .00625 acres per dwelling unit (2.5 ÷ 400). A 50,000 square foot office equates to 30 EDUs ([50,000 ÷ 1,000] * 0.6), which would require 0.1875 acres of parks and open space (30 x .00625). This equates residential to non-residential demands for parks and open space based on anticipated human activity.

- b. A methodology for computing the Impact Areas of park facilities based upon anticipated walking distances and drive times; and
- c. Park facility typologies, including natural areas, community centers, and urban civic spaces consistent with Formula 2040. The typologies may assign credits to public parks and recreation facilities based upon their community value, anticipated development expenses, and proximity to new development.

C. Availability and Mitigation

If existing public parks and recreation facilities are not sufficient to meet the adopted LOS standard, the Planning Director may find that adequate mitigation is being provided if:

1. Adequate improved public park lands are available and programed to serve the residents of the proposed development with 100 percent of the expenditures for the construction of the facility within the adopted County CIP as determined under the *Park and Recreation Facility Guidelines*; or
2. That improvements participated in or funded by the applicant, including pro rata participation in a specific Public Facilities Financing and Implementation Program will alleviate any inadequacy as determined under the *Park and Recreation Facility Guidelines*.

24-3.509. Schools Adequacy³⁰

A. Applicability

1. Unless exempted in accordance with Sec. 24-3.509.A.3 below, a Certificate for Schools Adequacy shall be reviewed and approved, approved with conditions, or denied in accordance with Sec. 24-3.503, Certificate of Adequacy.
2. To gain approval of the Certificate for Schools Adequacy, the applicant shall demonstrate the proposed development complies with the LOS standards of Subsection B, provides adequate mitigation (if appropriate), and complies with all other relevant requirements of this Section.
3. The following are exempt from the requirements of this Section:
 - a. A preliminary plan for subdivision which is a redevelopment project that replaces existing dwelling units;
 - b. A preliminary plan for subdivision for elderly housing operated in accordance with the State and Federal Fair Housing laws;
 - c. A preliminary plan for subdivision that consists of no more than three lots on less than five gross acres of

³⁰ This builds on Sec. 24-122.02 of the current Subdivision Regulations, except as indicated below. While the ERR (page IV-56) indicates this Section will be codified as Section 24-3.600 (which puts it outside of the APF provisions), this codifies Schools Adequacy with the rest of the APF standards. If this is not done it would mean the schools adequacy standards would be in a different section than the police, water/sewer, and parks and recreation adequacy standards.

land, whose lots, except for one to be retained by grantor, are to be conveyed to a son or daughter or lineal descendant of the grantor; and

- d. A preliminary plan for subdivision located in the transit-oriented/activity center zones.³¹

B. Adopted LOS Standard for Schools

1. The adopted LOS standard for schools is based on school clusters, which are groupings of elementary, middle, and high schools that are impacted by the preliminary plan for subdivision.
2. The adopted LOS standard is that the number of students generated by the proposed subdivision at each stage of development will not exceed 105 percent of the state rated capacity, as adjusted by the School Regulations, of the affected elementary, middle, and high school clusters.
3. The number of elementary, middle, and high school students generated by the proposed subdivision shall be determined in accordance with the pupil yield factors for each dwelling unit type as determined by the Planning Director from historical information provided by the Superintendent of the Prince George's County Public Schools.
4. The Planning Director shall determine:
 - a. The school cluster or clusters impacted by the proposed preliminary plan for subdivision.
 - b. The actual enrollment, which is the number of elementary, middle, and high school students, as

reported by the Superintendent of the Prince George's County Public Schools as of September 30 of the prior year, and as calculated by the Planning Director that is effective in January of each year for use in that calendar year.

- c. The completion enrollment, which is the total number of elementary, middle, and high school students to be generated by the estimated number of residential completions, for each school cluster.
 - i. Residential completions are estimated from the total of all substantially completed dwelling units added to the County's assessable tax base in the two previous calendar years.
 - ii. In determining completion enrollment, the estimated number of residential completions in a given school cluster will not exceed the number of dwelling units shown on:
 - (A) An approved preliminary plan of subdivision with no waiting period, or with a waiting period less than 24 months as of September 30 of each calendar year; and
 - (B) All recorded plats not subject to an adequate public facilities test for schools at time of building permit issuance.
- d. The subdivision enrollment, which is the anticipated number of elementary, middle, and high school students to be generated by all dwelling units shown on the proposed preliminary plan of subdivision, multiplied by the pupil yield factor.

³¹ Replaces the Developed Tier from *Plan 2035*.

- e. The cumulative enrollment, which is the total of all subdivision enrollments resulting from approved preliminary plans of subdivision in each school cluster for the calendar year in which an adequate public facilities test is being applied.
- 5. The Planning Director shall determine the subdivision's cluster enrollment by adding: the actual number of students in the cluster as of September 30; the number of students anticipated from residential completions in the cluster; the number anticipated from the subdivision; and the number of students anticipated from subdivisions already approved in the cluster within the calendar year. The Planning Director shall then determine the percent capacity by dividing the cluster enrollment by the state rated capacity (adjusted by the School Regulations) of schools in the cluster.

C. Mitigation

Whenever an adequate school facility fee is charged in conjunction with a building permit, it shall be reduced by the full amount of the school facilities surcharge imposed on that same permit.

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Division 6: Definitions

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Sec. 24-6.200 Definitions

The following words, terms, and phrases, when used in these Regulations, shall have the meaning ascribed to them in this section.

Adopted Level of Service Standard (or “Adopted LOS Standard”)¹

As referenced in Sec. 24-3.502.B, and Secs. 24-3.504 through 24-3.509 for a particular Public Facility, the level of service standard that applies to the evaluation of an application for a Certificate of Adequacy or Conditional Certificate of Adequacy to determine whether they are approved, approved with conditions (mitigation), or denied. The Adopted LOS standard may also provide a basis for the establishment or expansion of a Public Facility or service, which is subject to the Adequate Public Facilities (APF) provisions.

Advanced Capacity²

Capacity created by Public Facilities which do not currently exist, but that will be provided by the applicant where permitted by Secs. 24-3.504 through 24-3.509.

Alternative Trip Capture³

Anticipated trips that are captured by multimodal transit, pedestrian, or bicycle facilities that meet quality/level-of-service (Q/LOS) or level-of-comfort (LOC) standards and methodologies established in the *Transportation Review Guidelines*.

Applicant⁴

Any person or entity who files an application under these Regulations. For purposes of compliance, the “applicant” includes the applicant’s heirs, successors, and assigns.

¹ This is a new definition.

² This is a new definition.

³ This is a new definition.

⁴ This is a new definition.

Available Capacity⁵

The Capacity of a Public Facility, once Used Capacity and Committed Capacity are taken into account.

Capacity⁶

The ability of a Public Facility to accommodate development or service demands based upon the Adopted LOS Standard.

Committed Capacity⁷

The demand for capacity which will be used by a development that has been approved but not yet built.

Commencement of Construction

The first placement of permanent construction of a structure on a site, such as pouring of slabs or footings or any work beyond the stage of excavation.

Impact Area⁸

The area within which a proposed development is presumed to create a demand for Public Facilities, and is evaluated for compliance with Sec. 24-3.500 Public Facility Adequacy. An Impact Area for a specific Public Facility is defined in Sec. 24-3.500, Public Facility Adequacy.

Inadequate or Inadequacy⁹

A Public Facility is Inadequate where it is unable to meet the Adopted LOS Standard based on its current demands, the demands created by an application for a Certificate of Adequacy or

⁵ This is a new definition.

⁶ This is a new definition.

⁷ This is a new definition.

⁸ This is a new definition.

⁹ This is a new definition.

Conditional Certificate of Adequacy, and any impacts that will be created by approved but unbuilt development.

Level of Service (LOS) Standard¹⁰

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.

Major Intersection

The intersection of any collector with a major roadway.

Major Roadway

A four-lane, divided roadway with controlled access to abutting properties and at-grade intersections.

Minor Subdivision for School Surcharge Exemption¹¹

The subdivision of land pursuant to a minor final plat of subdivision that was approved pursuant to a minor preliminary plan of subdivision. Only one school surcharge exemption may be permitted from land that has been through the minor subdivision process.

Owner's Personal Residence for Minor Subdivision School Surcharge Exemption¹²

The lot for which a residential building permit was filed and the

¹⁰ For most facilities, the capacity per unit of demand is a sufficient definition of a LOS standard. For facilities such as fire protection and law enforcement, there may not be a direct relationship between a single, individual development and the facility's "capacity", but the facility's performance is degraded when development occurs without adding additional equipment or improvements.

¹¹ This carries forward from Sec. 24-101 of the current Subdivision Regulations.

¹² This carries forward from Sec.24-101 of the current Subdivision Regulations.

applicant for that permit shall be the individual that subdivided the land.

Park and Recreation Facilities Guidelines¹³

The Park and Recreation Facilities Guidelines prepared by the Department of Parks and Recreation, in consultation with the Planning Department in accordance with Sec. 24-3.500, Public Facility Adequacy.

Planned Capacity¹⁴

A public improvement that is not in place and operational, but that is scheduled for funding in the County's Capital Improvements Program (County CIP) or the capital improvement program of the agency or entity that provides the improvements.

Planning Director¹⁵

The Director of the Prince George's County Planning Department of the Maryland-National Capital Park and Planning Commission, or designee.

Public Facility (or Public Facilities)

A capital improvement that expands capacity sufficient to accommodate demands for that facility (such as vehicle trips or water or sewer flows). Public facilities include transportation, sanitary sewer, water, police space or vehicles, parks and recreation land and improvements, and public school land, space and improvements.

Public Facilities Agreement¹⁶

An agreement wherein an applicant for a subdivision promises to

¹³ This is a new definition.

¹⁴ This is a new definition.

¹⁵ This is a new definition.

¹⁶ This carries forward Sec. 24-101 of the current Subdivision Regulations.

provide required public improvements. Such agreement, however, does not replace bonding requirements of public agencies in connection with building, grading, street construction and the like.

Public Facilities Financing and Implementation Program¹⁷

A comprehensive program established by the County Council that is intended to implement and facilitate the General Plan, a Master Plan, or Sector Plan recommendations regarding the construction and maintenance of public facilities not subject to public facilities surcharges, including water, sewerage, transportation (streets and mass transit), libraries, recreation, and privately owned and maintained streets and recreational facilities authorized in accordance with the Zoning Ordinance. This includes some or all proposed and future development in a specified area, and should include provisions for financing strategies including, but not limited to, pro-rata contributions, sale leasebacks, and funding "clubs." Costs for the proposed and future development in a specified area established within a Public Facilities Financing and Implementation Program (PFFIP) shall include annual cost adjustments, to be identified at the time of establishment of the PFFIP, to account for the effect of inflation.

Public Facilities¹⁸

Facilities and services such as, but not limited to, water, sewer, transportation (i.e., streets, transit), schools, libraries, recreation, police protection, fire, and rescue.

Public Safety Guidelines¹⁹

The Guidelines for the Mitigation of Adequate Public Facilities: Public Safety (hereinafter Public Safety Guidelines).

¹⁷ This is a new definition.

¹⁸ This is carried forward from Sec. 24-101 of the current Subdivision Regulations..

¹⁹ This is a new definition.

Pupil Yield Factor²⁰

The estimated number of elementary, middle, and high school students per dwelling unit, as determined by the Planning Director, from information provided by the Superintendent of the Prince George's County Public Schools.

Reserved Capacity²¹

The projected impacts on a Public Facility created by a proposed but unbuilt development that has received a Certificate of Adequacy or Conditional Certificate of Adequacy, where (1) the County will count those impacts against available capacity, and (2) the application will not be retested during any point in the development approval process to determine whether those facilities meet the adopted LOS standard. Depending upon the type of application, whether the applicant has taken steps to ensure that the capacity remains committed, and the specific terms of Sec. 24-3.500, Committed Capacity may be reclassified as Available Capacity.

Residential subdivision

A subdivision in which all of the lots are reserved for uses within the "residential uses classification" in Subtitle 27, Section 27-8.301.D, including accessory and transportation, water, sewer, schools, parks, recreation and open space, and related infrastructure needed to serve the subdivision.

Road²²

A travel way for vehicles and pedestrians, bicycles, transit, or other travel modes that: (1) is owned and maintained exclusively or jointly by the County, State of Maryland, a municipality, or the federal government; or (2) is shown upon an approved final plat for

²⁰ This is carried forward from Sec. 24-101 of the current Subdivision Regulations.

²¹ This is a new definition.

²² This is a new definition.

subdivision; or (3) is approved by other official action, whether or not the road is in public or private ownership. The road includes the land between the right-of-way lines, whether improved or unimproved.

Roadway Improvement²³

Any road, pedestrian, transit, or bike capital improvement which will serve to enhance the vehicular movement or increase the multimodal volume on any road. The following roadway elements shall be considered roadway improvements: thru-lanes; turn lanes; bridges; traffic and pedestrian signalization; sidewalks or bike facilities that serve to enhance crosswalk movement or volume; transit capital improvements that increase passenger capacity; resurfacing of existing roadways including planning and removal of existing paved surfaces where the improvements enhance the roadway capacity and service level; and other structural improvements shown by specific studies to enhance roadway capacity.

The following activities are considered part of the cost of roadway improvements: preliminary engineering, design studies, land surveys, engineering design, right-of-way acquisition, and permitting, that are associated with the construction of any of the roadway elements listed above.

School Regulations²⁴

The *Adequate Public Facilities Regulations for Schools*, as adopted and amended by the County Council.

Sustainable Growth Tier²⁵

The tiers adopted by a local jurisdiction in accordance with Section

9-206 of the Environment Article, Annotated Code of Maryland.

Transportation Review Guidelines²⁶

The guidelines for the analysis of the traffic, pedestrian or bicycle impact of development proposals.

Transportation Facility

Any public highway, road, bridge, transit system, bikeway, or pedestrian pathway that: (1) is located within a project's impact area identified in a Traffic Impact Study, and (2) that provides capacity to accommodate vehicle trips, or to offset vehicle trips through Alternative Trip Capture.

Used Capacity²⁷

Public Facilities Capacity that is used or consumed by existing development at the time of the filing of an application.

²³ This is a new definition.

²⁴ This is carried forward from Sec. 24-101 of the current Subdivision Regulations.

²⁵ This is carried forward from Sec. 24-101 of the current Subdivision Regulations.

²⁶ This is a new definition.

²⁷ This is a new definition.