

Town of Thurmont

ADEQUATE PUBLIC FACILITIES ORDINANCE

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Prepared by the Frederick County Department of Planning and Zoning for the Town of Thurmont, under the local Planning Services Program of the Board of County Commissioners.

Director of Planning
James R. Shaw

Town Planner
James A. Gugel, A.I.C.P.

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ADEQUATE PUBLIC FACILITIES

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State law reference - Adequate public facilities, Anno. Code of Md., Art. 66 B, Section 10.01.

ARTICLE I. IN GENERAL

Sec. 1.0 Title

This chapter shall be known and cited as the Adequate Public Facilities Ordinance of the Town of Thurmont, Maryland.

Sec. 2.0 Authority

This chapter is established in accordance with the provisions of Article 66B of the Annotated Code of Maryland.

Sec. 3.0 Jurisdiction

The provisions of this chapter shall apply to all lands within the territorial limits of the Town of Thurmont.

Sec. 4.0 Intent

This chapter is adopted with the intent that new residential, industrial and other development take place in accordance with the Town Master Plan, and County Comprehensive Plan, the Capital Improvements Programs and to ensure that adequate public facilities and services are available concurrent with new development so that orderly development and growth can occur. Provision of adequate facilities will take place in cooperation with the County, especially when County facilities are affected by new development which falls under the requirements of this ordinance. For the purposes of this ordinance, public facilities shall include, road, water, sewerage and school facilities.

(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 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, or any other similar entity.
- (7) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (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" means that all the connected items, conditions, provisions, and events apply together and not separately.
 - b. "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination.
 - c. "Either . . . or" means that 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.
- (9) When a term defined in the Town subdivision regulations, zoning ordinance, or the building code, occurs in this chapter, it has the meanings specified in the subdivision regulations, zoning ordinance or building code, unless specifically defined in this chapter.
- (10) The word "Town" means Town of Thurmont, Maryland. The word "county" means Frederick County, Maryland. The word "state" means the State of Maryland.
- (11) Throughout this chapter, all words, other than the terms specifically defined herein, have the meaning inferred from their context in this chapter or their ordinarily accepted definitions.

- (B) In this chapter, the following terms are used as defined unless otherwise apparent from the context:

Adequate Public Facilities (APF) - Those public facilities included in the context of this ordinance which meet established minimum standards as further specified herein.

Adequate Public Facility Letter of Understanding - A letter from the Planning Commission to the developer which sets forth all terms, conditions and restrictions which must be satisfied for a finding of adequacy.

Amend or amendment - Any repeal, modification, or addition to a regulation; any new regulation.

Background Enrollment Growth - The Average annual impact of equated student enrollment changes during the preceding three years in the school attendance areas serving the proposed development with appropriate adjustments made in the determination by the Frederick County Public Schools to eliminate student enrollment changes caused solely by school redistricting. (Revised 10/4/00)

Capital Improvement Program (CIP) - An annual document adopted by the County or Town indicating County capital projects having funding approval of the current fiscal year and those capital projects which are currently planned for the following five year period, including the proposed means of financing the same.

Capital Budget - The current and first year of the approved CIP.

County Comprehensive Plan - A composite of mapped and written text, the purpose of which is to guide the physical development of the county, and is adopted by the Board of County Commissioners and includes all changes and additions thereto made under the provisions of Article 66B of the Annotated Code of Maryland.

Consolidated Transportation Program (CTP) - An annual document prepared by the Maryland Department of Transportation and approved by the Maryland General Assembly indicating state transportation projects which have funding approval for the current fiscal year and those projects which are planned for the following five year period.

Developer - An individual, partnership, corporation (or agent thereof), or other entities that undertakes the responsibility for any or all of the activities covered by this chapter and the Town Subdivision Regulations, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of the project may differ.

Development - The area of land which is subject to change in use (preliminary plan or site plan approval) or expansion of existing use and which is subject to subdivision nor site plan review.

Final Plat - The final map, drawing or chart upon which the subdivider's plan of subdivision is presented to the Town Planning Commission for approval and which, if approved, will be submitted for recording among the land records for Frederick County.

Government Projects - Any building, structure, or alteration thereof paid for and used by the local, state or federal government entities.

Level of Service (LOS) - A standardized index of relative service provided by a road or highway ranging from "A" to "F" with "A" representing free, unobstructed flow and "F" representing a forced flow beyond capacity of the facility as defined in the Highway Capacity Manual published by the Highway Research Board.

Lot - A contiguous area of land separated from other areas of land by separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer or ownership or separate use.

Lot of Record - Any lot legally recorded in the land records of the County which has been the subject of subdivision approval.

Major Subdivision - Any parcel which has been or is proposed to be subdivided to create six (6) or more lots.

Maximum Day Demand - The greatest amount of water use experienced by the town on any one day excluding extraordinary conditions such as water main breaks etc.*
(Revised 3/4/03)

Minor Subdivision - Any parcel which has been or is proposed to be subdivided to create five (5) or fewer lots.

Planning and Zoning Department - A department within the county government that provides planning assistance for the Town Planning Commission and other functions as directed by the Town Planning Commission and/or Town Board of Commissioners.

Preliminary Plat - The preliminary drawings and supplementary materials indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

Public Works Agreement - A contract, between the developer and the Town to complete the necessary improvements in accordance with the approved plans and specifications by a given date.

Rated Well Capacity - The gallons of water that can be pumped per minute, based on normal groundwater conditions, without adversely affecting the wells (based on 75% of MDE permitted withdrawal rate). The actual capacity can fluctuate depending on the level of the water table.*(Revised 3/4/03)

Roads - Public rights-of-way recognized and maintained by the state, county or Town including, but not limited to, pavement, drainage, traffic control devices, bridges and culverts.

Site Development Plan (Site Plan) - The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted to the planning commission and/or staff for approval prior to the release of building permits on the site.

State Rated Capacity - The maximum number of students, as determined by the State, that can be reasonably accommodated in a school facility without significantly hampering delivery of the given educational program. Portable classrooms shall not be used in calculating a school's capacity.(Revised 10/4/00)

Structural Adequacy - Determination by County DPW Design Engineers or other Town designee, that the pavement cross section (or bridge design) is of sufficient depth and design to carry the increased traffic volume generated by the proposed development, including the heavy construction vehicles which will be present, without causing undue failure of the infrastructure.

Subdivision - The division of a lot, tract or parcel of land into two (2) or more lots, parcels, site or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development. It includes resubdivision and when appropriate to the context, relates to the process of re-subdividing or to the land or territory subdivided.

Zoning Administrator - The administrative officer in charge of zoning administration within the Town.

Sec. 6.0 General Requirements

- (A) In planning and developing any subdivision nor any development, the developer shall comply with the general principles set forth in this chapter for the provision of adequate facilities; and in every case the developer shall observe the procedure outlined in this chapter.
- (B) A developer shall not avoid the intent of this ordinance by submitting piecemeal applications for preliminary plats or site plans. However, a developer may seek approval of only a portion of the subdivision or development, provided that the impact from all previously approved preliminaries or site plans from that development shall be considered during the APF review of each subsequent portion of the development.

Sec. 7.0 Exemptions

- (A) Minor residential subdivisions, schools and public safety facilities are not subject to the requirements of this chapter.
- (B) Any existing preliminary subdivision plat approved prior to the effective date of this ordinance shall be exempt from the requirements of this chapter.
 - (1) Non-residential development with a valid preliminary subdivision plan or site plan approval shall be exempt 3 years from the effective date of this ordinance.

(2) All plats having preliminary approval and seeking extensions of approval must comply with Subdivision Regulations.

(C) Development that meet the requirements of this chapter at the time of preliminary subdivision approval do not have to comply with the provisions of this chapter at the time of site plan approval.

Sec. 8.0 Approval of Subdivisions, Site Plans

(A) All subdivisions or site plans or revised subdivisions or site plans resulting in an increase in density or intensity of use, received for approval or re-approval by the Town Planning Commission after the effective date of this ordinance shall meet the requirements set forth herein prior to preliminary plat or site plan approval except as provided for in Section 7.0, Exemptions.

(B) Subdivision plats or site plans that do not meet the requirements for adequate public facilities in Articles III-IV herein, shall not be granted preliminary subdivision or site plan approval by the Town Planning Commission. A conditional approval as allowed for in Section 9.0 may be granted, provided no final approval shall be granted or lots recorded until the conditions set forth in the conditional approval have been met.

(C) Prior to the signing of a preliminary plat or site plan, an Adequate Public Facilities Letter of Understanding shall be forwarded to the planning commission and to the developer.

(D) Approval of adequate public facilities as set forth in this chapter shall be valid from the date of signature of preliminary subdivision or site plan approval for the following time period as long as the preliminary approval remains valid

(1) Residential Subdivisions

6-150 units. 3 years

over 150 units. 5 years

(2) Site Plans

The length of the site plan approval but no more than three years.

- (E) At the request of the developer, the Town Planning Commission may extend the approval of adequate public facilities beyond the time frame provided in Section 8.0 (D) above, if the commission finds that the development is proceeding as scheduled and all conditions of approval are being met or that circumstances in the control of the County or Town are impeding the progress of the development.
- (F) If the preliminary plat or site plan approval expires or is voided prior to the recording of all lots, the unrecorded lots or in the case of site plans, unconstructed portion of the development, shall meet the requirements of this ordinance prior to again obtaining preliminary subdivision or site plan approval.
- (G) A developer seeking preliminary subdivision or site plan approval of a development must comply with the Town Subdivision Regulations and Zoning Ordinance.
- (H) Prior to recordation of final plats, all Health Department or other Town reviewing agency comments must be complied with.

Sec. 9.0 Conditional Approval

- (A) Conditional site plan or preliminary plat approval may be granted to a development that does not have adequate public facilities at the time of planning commission consideration, provided that the developer offers to provide the necessary improvements to make the facility or facilities adequate as allowed for in Section 10.0, Developer Option. If developer improvements will not result in adequate capacity, conditional approval shall not be granted, and preliminary plat and site plan approval shall be denied.
- (B) If conditional site plan approval has been granted, a building permit shall not be issues until the conditions have been satisfied, or the facilities have been determined to be adequate.

Sec. 10.0 Developer Option

The Developer shall have the option to offer the public facility improvements necessary to support the proposed development and to ensure adequacy of public facilities set forth in this ordinance or wait for public facilities to become adequate by improvements made pursuant to the Town or County CIP or other sources. A county, state or Town agency may participate in the improvements.

Sec. 11.0 Escrow Funds for Road Improvements

- (A) In lieu of either providing the public facility improvements or waiting for public facilities to become adequate as provided in Section 10.0, the developer shall have the option of contributing money to an escrow account as set forth in this section provided the Planning Commission determines that the developer has fulfilled each of the requirements of this section.

- (B) The amount of money the developer shall be required to place in the escrow account shall be the proportionate share of costs of making the improvements required to satisfy the roads adequacy requirements in Article III, Sections 1.0 and 2.0. This proportionate share shall be based on an equitable allocation or portion of traffic trips that the proposed development is estimated to cause. The amount of such escrow shall be roughly proportionate to the anticipated traffic impact on the proposed development. In arriving at the equitable allocation or portion, the Planning Commission shall consider the traffic impact of the development as it relates to the entire road improvement being proposed. The applicant shall provide adequate information to make this equitable allocation. Planning Department and Department of Public Works staffs shall review this information provided by the applicant and recommend an equitable allocation. The Planning Commission shall determine the equitable allocation. The proposed road improvement may upon the request of the applicant be designed to create more new capacity than only that which is required for the development to satisfy the adequacy requirements in Article III, Section 1.0 and 2.0, if the Planning Commission determines that the road link or intersection to be improved will require greater improvement to handle additional future development consistent

with the Town Comprehensive Plan. Once a road improvement is approved for a particular road link or intersection and an escrow account is established, subsequent applicants shall either contribute to the escrow fund an equitable allocation of the approved road improvement or build the approved road improvement.

- (C) The Planning Commission shall approve this escrow request if the Planning Commission determines that it would not be equitable to impose the entire cost of the required improvements on the developer because of the limited impact that the proposed development would have on the roads in question and that the development would not have a substantial adverse impact on traffic. Limited impact shall be defined as 50% or less of the traffic impact capable of being handled by the proposed road improvement. However, for limited impact projects of between 25% and 50% impact, the Planning Commission may disapprove the escrow account request if it determines that funds (40% or more) exist in an escrow account which, along with the applicant's proportionate share, are sufficient to substantially complete the necessary improvements or if the escrow approval will result in a piecemeal effort by the applicant to avoid making the necessary road improvements. Additionally, the Planning Commission may approve an escrow request if improvements necessary to establish adequacy are practically infeasible due to circumstances beyond the control of the applicant but which are feasible if constructed as a public project. No escrow request shall be approved for a road improvement that the Planning Commission determines is infeasible to construct. In determining whether a development has a limited impact, the Planning Commission shall consider the general requirement in Article I, Section 6.0, that the developer not avoid the intent of this chapter by submitting piecemeal applications and may deny an escrow request for a piecemeal application.
- (D) Once an escrow is established, any developer having an impact on the improvement project shall be required to pay its proportionate share into the escrow account or make the road improvements as provided in Article I, Section 10.0, to gain Adequate Public Facilities approval to allow development to proceed.

- (E) The escrow account shall be maintained by the Town Treasurer in an interest bearing account and shall be used solely for road improvements benefiting the property as determined by the Thurmont Board of Commissioners. Any funds in the escrow account (together with interest earned thereon) which are not expended or encumbered by the end of the tenth fiscal year following collection shall, upon allocation by the escrow account payer, be refunded to the payer. The Thurmont Board of Commissioners may extend this ten year period for a specified term based on a reasonable expectation that road improvements benefiting the property will be constructed during the extended term. In addition, if the money paid into an escrow account for road improvements exceeds actual costs, the applicant may seek a refund. Any application for refund must be filed with the Town Treasurer within one year of the time at which such funds become available for refund.
- (F) If the Planning Commission approves an escrow fund for road improvements under this section and the development meets all other requirements, then the Planning Commission shall grant to the development conditional site plan or preliminary plat approval.
- (G) If a developer constructs road improvements for which an escrow account has previously been established pursuant to this section, the funds in the escrow account shall be made available to the developer to defray the construction costs of the improvements.
- (H) A county, state or municipal government agency may participate in the improvements.

ARTICLE II. ADMINISTRATION

Sec. 1.0 Administrative Agency Designated

The Adequate Public Facilities Ordinance shall be administered by the Town. All applications, maps and documents relative to subdivision, site plan approval and subject to the provisions of this chapter shall be submitted to the Town which will review all information and presented the relevant information and its recommendations to the Town Planning Commission. Final determination of adequacy shall be the responsibility of the Town Planning Commission.

Sec. 2.0 Referral to Other Agencies/Public Comment

- (A) The Town may refer the subdivision, site and development plans to any Town or County agency or any other agency it deems appropriate for its review, comments and/or recommendations pertaining to the adequacy of public facilities; and these recommendations shall be considered by of the Planning Commission in making its decision.
- (B) The Planning Commission shall accept public comments and consider these comments as part of the record and its decision making process.

Sec. 3.0 Appeals

- (A) Any person aggrieved by any action of the Planning Commission pursuant to this chapter, may appeal to the Circuit Court pursuant to the Maryland Rules. The decision of the Circuit Court may be appealed to the Court of Special Appeals or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules.
- (B) The Town Board of Commissioners may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the county, to the Court of Special Appeals of Maryland, or upon certiorari, to the Court of Appeals of Maryland of any decision made under this ordinance.

Sec. 4.0 Amendments

- (A) The Town Board of Commissioners may amend the provisions of this chapter if the Board determines that any such amendment will be in the best interest of the citizens of the Town and consistent with the general intent of this chapter. Proposals for an amendment may be initiated by any person, group, agency or organization, by resolution by the Town Board of Commissioners, by motion of the Planning Commission or by any other agency of the County.

- (B) Proposed amendments shall be filed with the Town and will be referred to appropriate agencies for comment. The comments received from the agencies shall be referred to the Planning Commission and Town Board of Commissioners for their consideration. The Planning Commission shall hold a public hearing on the proposed amendments and shall submit its recommendations or proposals to the Town Board of Commissioners within 32 days of the public hearing. The Town Board of Commissioners shall hold a public hearing on the proposed amendment and shall render a decision within 60 days of the public hearing.

- (C) Notice of the time and place of the public hearing, together with a summary of the proposed amendment shall be published in at least one newspaper of general circulation in the Town once each week for two successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.

Sec. 5.0 Fees

- (A) The Town Board of Commissioners shall establish by resolution fees for APF related services specified in this chapter, but in no event shall the fees charged be more than the costs incurred by the Town or County.

ARTICLE III. ROADS

Sec. 1.0 Thresholds

- (A) This article exempts developments which generate or are expected to generate less than twenty-five (25) peak hour, peak direction vehicle trips as defined by the most recent edition of the Institute of Transportation Engineer's, (ITE) "Trip Generation Manual" for the use category determined by the zoning administrator. The peak direction is defined here as either the inbound or outbound peak flow, and is not meant to refer to a geographic direction.
- (B) In determining whether or not a total of twenty-five (25) peak hour, peak directional vehicles trips will be generated, all land at one location within the Town under common ownership or control by a developer, shall be included. The phrase "at one location" means all adjacent land of the developer, the property lines of which are contiguous or nearly contiguous at any point. A developer shall not avoid the intent of this section by submitting piecemeal applications for preliminary plats or site plans. A developer may seek approval of only a portion of a subdivision or development which generates less trips than the criteria, provided that upon seeking approval of the remaining subdivision or development which generates trips greater than the criteria, including that approved previously under this subsection, the development will comply with the requirements of this section.

Sec. 2.0 Determination of Adequacy

- (A) For all development applications, meeting the threshold criteria outlined in Section 1.0 (B) above a Traffic Impact Study (TIS) shall be prepared by the developer and submitted to the Town will review it along with the Division of Public Works and the County Department of Planning and Zoning. The portion of existing road(s) required to be adequate shall be determined by the Town and the County Department of Planning and Zoning in consultation with the County Division of Public Works based on a pre-study conference with the developer and other relevant information.

The Department of Planning and Zoning and Division of Public Works shall use as its guidelines the following two paragraphs, but may, in consultation with the developer, adopt a reasonable study area based on south traffic engineering knowledge of the site and the situation. The Town Planning Commission reserves the right to comment on the defined study area. Any disputes regarding study area or scope shall be resolved by the Town Planning Commission.

- (1) The portion of the existing road(s) required to be adequate for a proposed development shall be from the site's planned entrance(s) to the nearest intersection of an arterial road or freeway/expressway with a collector road, in the direction or directions of traffic flow anticipated by the Department of Planning and Zoning unless the pre-study conference determines otherwise.
- (2) All primary and interstate highways shall be exempt from the requirements herein.

(B) The TIS shall be prepared for the deign hours, which are defined as the peak hours which will be most affected by the proposed development, i.e., any combination of am, mid-day, pm, evening, weekend, or school hours as determined via the pre-study agreement. The TIS will include, but not be limited to,:

- (1) A written description of the site boundaries and characteristics which the study has been based upon, including development size, land usage, proposed parking, etc., a graphical depiction of the site location, and, where helpful, a graphical summarization of any unique site plan characteristics;
- (2) Existing conditions including existing traffic volumes recorded when school is in session (unless in the opinion of the Department of Planning and Zoning significant circumstances preclude this), existing lane usage, existing levels of service (LOS), and a thorough study area descriptive narrative of the physical roadway conditions, including all controls, constraints, and deficiencies,;

- (3) Vehicle trip generation and design hour volumes generated by the proposed development and traffic expected to be generated by approved development in the study areas as determined by the zoning administrator. The latest edition of the ITE "Trip Generation Manual" is to be used unless specifically applicable rates (county comparables, individual generator studies, etc.) are identified and accepted by the Town;
 - (4) Trip distribution and traffic assignment based upon sound planning judgement of the future conditions;
 - (5) Growth in through-traffic as determined from historical data or other planning factors affecting future traffic volumes;
 - (6) LOS capacity analysis of all required intersections and links (where necessary) for existing conditions, and all intermediate and ultimate future conditions with and without the proposed development;
 - (7) In cases where traffic safety is identified as an issue at the pre-study conference, reported traffic accidents for the last five years;
 - (8) Roadway and bridge improvements programmed or currently funded for construction in the most recent Town or County Capital Budget or second year of CIP;
 - (9) Improvements funded in the current or second budget year of the Maryland Department of Transportation (MDOT) Consolidated Transportation Program; and
- (C) All traffic studies shall use the Critical Lane Method (CLM) of analysis at intersections and the Highway Capacity Manual for roadway links capacity at peak hour traffic flow. A technical description of the CLM technique is given in the January, 1971 Issue of Traffic Engineering, and county will have available copies. The following specific treatments will be applied to the CLM analysis:

(1) All non-signalized intersections will be treated as simple two-phased signalized intersections.

(2) The following lane use factors (L.U.F.) will be used:

<u># of Approach Lanes</u>	<u>L.U.F.</u>
1	1.0
2	0.55
3	0.40
<u>>4</u>	0.30

(3) "Free right turns" (which are not analyzed in the CLM method) are defined as movements typically isolated by channelization and controlled by a yield sign. Only if the right-turning vehicles are isolated from the queue of through vehicles on the approach leg, and there is sufficient exclusive acceleration opportunity on the turn leg, can they be excluded from the analysis.

(4) Right-turn-on-red (RTOR) "credits" generally will not be allowed unless it can be demonstrated/documentated that RTOR's are occurring at the intersection; even then, only low-volume intersections will be considered as candidate intersections.

(5) Where no separate left turn lanes occur at high volume intersections, the left-most approach lane should be assumed to handle all the lefts, with the other lanes carrying the through traffic and rights, etc. Actual observations/documentation of other conditions will be reviewed on a case-by-case basis.

(6) On one-lane approaches where a bypass of left-turning vehicles exists, a separate left turn lane can be assumed. Otherwise, the volumes should be combined.

(7) The following CLM Level of Service (LOS) criteria shall be used:

<u>Critical Lane Volume</u>	<u>LOS Grades</u>
≥ 977	A
978 - 1022	A/B
1023 - 1127	B
1128 - 1172	B/C
1173 - 1277	C
1276 - 1322	C/D
1323 - 1427	D
1428 - 1472	D/E
1473 - 1577	E
1578 - 1622	E/F
≥ 1623	F

(D) The following level of service criteria shall be met to determine road adequacy:

(1) Roads and intersections shall be considered adequate if a LOS "D" or better is maintained. In any designation, the applicant may also be requested to provide roadway mitigation in cases where the LOS meets the criteria but changes the grades in Section 2.0 (C)(7), by more than three levels (i.e., from LOS A/B to C/D would be considered reviewable, whereas A/B to C would not). Required mitigation, if any, will be reviewed on a case-by-base basis. Primary and interstate highways shall be exempt from the review.

(2) Roadway links shall be determined to be acceptable if actual capacity does not exceed 80% of rated capacity.

(E) If a future conditions is determined to be inadequate to accommodate the traffic flow projected by the TIS, the preliminary plat, or site plan approval shall be denied except as provided for in Article I, Section 9.0, Conditional Approval.

- (F) Road improvements necessary to meet the standards herein shall be determined by the Planning Commission after reviewing the entire record including TIS, road volume capacity, structural adequacy of the pavement, alignment, sight distance, structural conditions, design, lane width and Maryland State Highway Administration comments; and improvements may be provided by the developer as prescribed in Article I, Section 10.0.

ARTICLE IV. PUBLIC WATER SUPPLY

Sec. 1.0 Determination of Adequacy *(Revised 3/4/03)

- (A) The Municipal water system shall be considered adequate if, given existing connections, future connections from buildings under construction, and any developments with preliminary subdivision or site plan approval: (1) the source facilities, storage tanks and pumping stations have sufficient available capacity to serve the proposed development in addition to fire flow; and (2) the distribution system is capable of providing normal required pressure as well as minimal residual pressure to the proposed development.
- (B) Available capacity shall be determined, as being 80% of the town's rated well capacity minus the town's current maximum day demand.
(Rated Well Capacity x .80) - Maximum Day Demand = Available Capacity.
- (C) If the municipal water system is found to be inadequate, site plan or preliminary subdivision approval shall be denied except as provided for in Article I, Section 9.0 Conditional Approval. In the event that the town declares a stage 3 drought warning or a stage 4 drought emergency no new site plans or preliminary subdivisions likely to result in increased water use shall be approved.
- (D) Improvements necessary to meet the standards herein shall be determined by the Planning Commission and may be provided by the developer as allowed for in Article I, Section 10.0.

ARTICLE V. SEWERAGE FACILITIES

Sec. 1.0 Determination of Adequacy *(Revised 3/4/03)

- (A) The municipal sewerage system shall be considered adequate if, given existing connections, future connections from buildings under construction, and developments with preliminary subdivision or site plan approval the systems designed to serve the proposed development are sufficient based on the annual MDE Rated Capacity of the Waste Water Treatment Plant to accommodate ultimate peak flows.
- (B) If the municipal sewerage system is found to be inadequate, site plan or preliminary subdivision approval shall be denied except as provided for in Article I, Section 9.0, Conditional Approval.
- (C) Improvements necessary to meet the standards herein shall be determined by the Planning Commission and may be provided by the developer as allowed for in Article I, Section 10.0.

ARTICLE VI. SCHOOLS

Sec. 1.0 Thresholds

This article applies only to residential development.

Sec. 2.0 Determination of Adequacy

- (A) At the time of preliminary plat or site plan approval, all public elementary, middle and high schools serving the proposed subdivision shall be adequate or have a construction contract approved by the BOE and a notice to proceed given to the contractor for a new school facility. (Revised 10/4/00)
- (B) (1) The Frederick County Public Schools will provide actual enrollment data to the County for the last school day of September, December, March and June and the State Rated Capacity for each elementary and secondary school. Adequacy of every elementary, middle and high school serving the proposed development shall be determined as of the date of plan submission, or the first date upon which all necessary APFO documentation and materials have been submitted, whichever occurs last, based upon data as published by the Frederick County Public Schools. If approval has not been received from the Planning Commission within six (6) months of the date of plan submission, the most recent quarterly school enrollment date must be utilized by the commission for APFO review unless a delay occurs attributable to the town. (Revised 10/4/00)
- (2) For determining adequacy, enrollment shall mean the Frederick County Public Schools official enrollment figures plus background enrollment plus pupils generated from the proposed development. (Revised 10/4/00)
- (3) State Rated Capacities and Pupil generation rates approved for use by the Frederick County Public Schools shall be used in all calculations. (Revised 10/4/00)

- (C) An elementary school shall be considered adequate if the enrollment is less than 100% of State Rated Capacity. A secondary school shall be considered adequate if enrollment is less than 100% of State Rated Capacity. (Revised 10/4/00) .
- (D) If a school is not adequate as defined in Section 2.0 (C) above and an adjoining school district at the same level is at least 20% below State Rated Capacity, then the Frederick County Board of Education (BOE) shall be requested to consider the possibility of redistricting to accommodate the new development. If the BOE considers redistricting as a viable alternative, and the BOE approves a specific redistricting plan that would result in schools that meet the standards established in Section 2.0 (C) above, then the school shall be considered adequate. (Revised 10/4/00)
- (E) If a school is not adequate and redistricting is not a viable alternative, then the preliminary subdivision or site plan approval shall be denied, except as allowed for in Article I, Section 9.0, Conditional Approval.
- (F) Improvements necessary to meet the standards herein shall be determined by the Planning Commission and may be provided by the developer as allowed for in Article I, Section 10.0.

ARTICLE VII. EFFECTIVE DATE

This ordinance is effective as of January 1, 1996, and shall apply to all applications for approval of subdivisions and site plans as required herein.

Adopted this 16th day of October, 1995.