
By: **Senator Dyson**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **St. Mary's County - Adequate Public Facilities Ordinance - Requirement to**
3 **Adopt**

4 FOR the purpose of requiring the St. Mary's Board of County Commissioners to adopt,
5 implement, and enforce an adequate public facilities ordinance by a certain date;
6 requiring the adequate public facilities ordinance to meet certain minimum
7 standards and to address certain essential public services and facilities;
8 requiring the adequate public facilities ordinance to establish and enforce
9 certain Level of Service Standards; establishing certain requirements for the
10 determination of the adequacy of essential public services and facilities;
11 requiring that development approvals granted prior to a certain date be
12 retroactively subject to the provisions of this Act if the projects have not been
13 completed by a certain date; authorizing the St. Mary's Board of County
14 Commissioners to establish certain processing fees; providing for a certain
15 penalty for failure to comply with the provisions of this Act; and generally
16 relating to an adequate public facilities ordinance in St. Mary's County.

17 BY adding to
18 Article 66B - Land Use
19 Section 10.02 through 10.06
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2004 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 66B - Land Use**

25 10.02.

26 (A) BY OCTOBER 1, 2005, THE ST. MARY'S BOARD OF COUNTY COMMISSIONERS
27 SHALL ADOPT, IMPLEMENT, AND ENFORCE AN ADEQUATE PUBLIC FACILITIES
28 ORDINANCE.

1 (B) THE ADEQUATE PUBLIC FACILITIES ORDINANCE SHALL MEET THE
2 MINIMUM STANDARDS IN §§ 10.03 AND 10.04 OF THIS SUBTITLE.

3 10.03.

4 THE ADEQUATE PUBLIC FACILITIES ORDINANCE SHALL CONTAIN PROVISIONS
5 THAT ADDRESS ALL OF THE FOLLOWING ESSENTIAL PUBLIC SERVICES AND
6 FACILITIES:

- 7 (1) SCHOOLS;
- 8 (2) ROADS;
- 9 (3) WATER;
- 10 (4) SEWER;
- 11 (5) STORMWATER DRAINAGE;
- 12 (6) HEALTH CARE;
- 13 (7) FIRE;
- 14 (8) POLICE;
- 15 (9) SOLID WASTE DISPOSAL; AND
- 16 (10) PARKS AND RECREATION.

17 10.04.

18 THE ADEQUATE PUBLIC FACILITIES ORDINANCE SHALL CONTAIN PROVISIONS
19 ESTABLISHING AND ENFORCING THE FOLLOWING LEVEL OF SERVICE STANDARDS
20 FOR ESSENTIAL PUBLIC SERVICES AND FACILITIES:

21 (1) (I) ENROLLMENT MAY NOT EXCEED 100% OF THE LOCAL RATED
22 CAPACITY IN ELEMENTARY, MIDDLE, AND HIGH SCHOOL DISTRICTS DESIGNATED BY
23 THE ST. MARY'S COUNTY BOARD OF EDUCATION;

24 (II) THE CALCULATION OF THE LOCAL RATED CAPACITY MAY NOT
25 INCLUDE RELOCATABLE CLASSROOMS; AND

26 (III) THE ST. MARY'S COUNTY PUBLIC SCHOOLS ADMINISTRATION
27 SHALL PERFORM AND CERTIFY THE CALCULATION OF THE IMPACT OF A PROPOSED
28 DEVELOPMENT ON SCHOOL CAPACITY IN THE AFFECTED SCHOOL DISTRICTS;

29 (2) (I) THE MINIMUM LEVEL OF SERVICE FOR ALL ROADS AND
30 INTERSECTIONS SHALL BE LEVEL OF SERVICE "C" DURING OFF-PEAK HOURS AND
31 LEVEL OF SERVICE "D" DURING PEAK HOURS; AND

1 (II) THE ST. MARY'S COUNTY DEPARTMENT OF PUBLIC WORKS OR
2 AN INDEPENDENT, QUALIFIED CONSULTANT CHOSEN BY THE DEPARTMENT OF
3 PUBLIC WORKS SHALL PERFORM THE CALCULATION OF THE EXISTING LEVEL OF
4 SERVICE FOR ROADS AND INTERSECTIONS;

5 (3) A PUBLIC OR PRIVATE COMMUNITY WATER SYSTEM SHALL BE
6 CONSIDERED ADEQUATE IF:

7 (I) THE SOURCE FACILITIES, STORAGE TANKS, AND LOCAL
8 PUMPING STATIONS HAVE SUFFICIENT AVAILABLE CAPACITY TO PROVIDE MAXIMUM
9 AND PEAK HOUR DEMAND IN ADDITION TO THE FIRE FLOW STANDARDS
10 ESTABLISHED BY THE NATIONAL BOARD OF FIRE UNDERWRITERS;

11 (II) THE DISTRIBUTION SYSTEM IS CAPABLE OF PROVIDING
12 NORMAL REQUIRED PRESSURE AND MINIMAL RESIDUAL PRESSURE; AND

13 (III) THE SYSTEM COMPLIES WITH APPLICABLE DEPARTMENT OF
14 THE ENVIRONMENT REGULATIONS AND ST. MARY'S COUNTY METROPOLITAN
15 COMMISSION REGULATIONS;

16 (4) A PUBLIC OR PRIVATE COMMUNITY SEWAGE SYSTEM SHALL BE
17 CONSIDERED ADEQUATE IF THE SYSTEM COMPLIES WITH APPLICABLE DEPARTMENT
18 OF THE ENVIRONMENT REGULATIONS AND ST. MARY'S COUNTY METROPOLITAN
19 COMMISSION REGULATIONS;

20 (5) A STORM DRAINAGE SYSTEM SHALL BE CONSIDERED ADEQUATE IF:

21 (I) THE ON-SITE DRAINAGE SYSTEM IS CAPABLE OF CONVEYING
22 THROUGH AND FROM THE PROPERTY AND THE DESIGN FLOW OF STORMWATER
23 RUNOFF ORIGINATING IN THE DEVELOPMENT DURING A 10 YEAR FLOOD; AND

24 (II) THE OFF-SITE DOWNSTREAM DRAINAGE SYSTEMS ARE
25 CAPABLE OF CONVEYING TO AN ACCEPTABLE OUTFALL THE DESIGN FLOW OF
26 STORMWATER ORIGINATING IN THE DEVELOPMENT;

27 (6) (I) A PROPOSED DEVELOPMENT MUST HAVE ACCESS TO
28 ADEQUATE PUBLIC HEALTH CARE AND EMERGENCY FACILITIES IN ITS SERVICE
29 AREA AS CERTIFIED BY THE ST. MARY'S COUNTY HEALTH OFFICER; AND

30 (II) A PROPOSED DEVELOPMENT MAY NOT BE SITUATED IN A
31 MANNER THAT ENDANGERS HEALTH, SAFETY, OR GENERAL WELFARE;

32 (7) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE
33 ADEQUATELY SERVED BY FIRE SUPPRESSION FACILITIES IF:

34 (I) THE DEVELOPMENT COMPLIES WITH THE WATER FIRE FLOW
35 STANDARDS ESTABLISHED BY THE NATIONAL BOARD OF FIRE UNDERWRITERS;

36 (II) AUTOMATIC SPRINKLERS ARE INSTALLED IN OTHER THAN
37 SINGLE FAMILY DWELLINGS;

1 (III) THE TIME FROM FIRST ALERT TO ARRIVAL ON THE SCENE FOR
2 EMERGENCY VEHICLES IS 10 MINUTES OR LESS; AND

3 (IV) THE ACCESS ROADS TO THE SITE ARE ADEQUATE FOR
4 EMERGENCY VEHICLE OPERATIONS;

5 (8) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE
6 ADEQUATELY SERVED BY POLICE SERVICES IF:

7 (I) THE TIME FROM FIRST ALERT TO ARRIVAL ON THE SCENE FOR
8 POLICE VEHICLES IS 10 MINUTES OR LESS;

9 (II) THE ACCESS ROADS TO THE SITE ARE ADEQUATE FOR
10 EMERGENCY VEHICLE OPERATIONS; AND

11 (III) THE ST. MARY'S COUNTY SHERIFF CERTIFIES THAT ADEQUATE
12 LAW ENFORCEMENT RESOURCES EXIST TO ABSORB THE IMPACT OF THE
13 DEVELOPMENT;

14 (9) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE
15 ADEQUATELY SERVED BY SOLID WASTE MANAGEMENT FACILITIES IF:

16 (I) AT LEAST 20 YEARS OF LAND IS DESIGNATED, APPROVED, AND
17 LICENSED BY THE DEPARTMENT OF THE ENVIRONMENT FOR USE AS A SANITARY
18 LANDFILL LOCATED WITHIN ST. MARY'S COUNTY; OR

19 (II) AN ALTERNATIVE METHOD OF SOLID WASTE DISPOSAL HAS
20 BEEN APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT FOR A PERIOD OF AT
21 LEAST 10 YEARS; AND

22 (10) A PROPOSED DEVELOPMENT MUST HAVE ACCESS TO ADEQUATE
23 PUBLIC PARKS AND RECREATION IN ITS SERVICE AREA AS DETERMINED AND
24 CERTIFIED BY THE DIRECTOR OF THE ST. MARY'S COUNTY DEPARTMENT OF PARKS
25 AND RECREATION.

26 10.05.

27 (A) (1) THE ADEQUACY OF THE ESSENTIAL PUBLIC SERVICES AND
28 FACILITIES IN §§ 10.03 AND 10.04 OF THIS SUBTITLE SHALL BE DETERMINED PRIOR TO
29 FINAL SUBDIVISION PLAN APPROVAL OR FINAL SITE PLAN APPROVAL.

30 (2) THE DETERMINATION OF ADEQUACY MAY NOT RELY SOLELY UPON
31 DATA PROVIDED BY DEVELOPMENT APPLICANTS.

32 (3) EXEMPTIONS TO THE PROVISIONS OF THE ADEQUATE PUBLIC
33 FACILITIES ORDINANCE MAY NOT BE AUTHORIZED FOR ANY SIZE OR TYPE OF
34 SUBDIVISIONS OR DEVELOPMENTS.

35 (4) THE ADEQUACY OF ALL ESSENTIAL PUBLIC SERVICES AND
36 FACILITIES MUST BE PRESENT AT THE TIME OF PLAN APPROVAL.

1 (5) FUTURE ADEQUACY IMPROVEMENTS CONTAINED IN THE ST. MARY'S
2 COUNTY CAPITAL IMPROVEMENT PLAN MAY NOT BE CONSIDERED.

3 (6) MITIGATIONS THAT DO NOT DIRECTLY CORRECT ADEQUACY
4 DEFICIENCIES SPECIFIC TO A PROPOSED SUBDIVISION OR DEVELOPMENT ARE NOT
5 PERMITTED.

6 (7) ALL FINDINGS AND APPROVALS OF ADEQUACY SHALL EXPIRE AT
7 THE END OF 24 MONTHS FROM THE DATE OF CERTIFICATION.

8 (B) DEVELOPMENT APPROVALS GRANTED PRIOR TO OCTOBER 1, 2005, SHALL
9 BE RETROACTIVELY SUBJECT TO THE PROVISIONS OF THIS ACT IF THE PROJECTS
10 HAVE NOT BEEN COMPLETED BY JULY 1, 2006.

11 10.06

12 (A) THE ST. MARY'S BOARD OF COUNTY COMMISSIONERS IS AUTHORIZED TO
13 ESTABLISH ADEQUATE PUBLIC FACILITIES ORDINANCE PROCESSING FEES TO
14 RECOVER REASONABLE COSTS FROM APPLICANTS FOR THE DETERMINATION OF THE
15 ADEQUACY OF ESSENTIAL PUBLIC SERVICES AND FACILITIES.

16 (B) FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ACT SHALL RESULT
17 IN THE REVOCATION OF ST. MARY'S COUNTY'S AUTHORITY TO APPROVE SITE PLANS
18 AND ISSUE BUILDING PERMITS.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2005.