
By: **Senator Dyson**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2005

CHAPTER _____

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 exempting certain subdivisions from the adequate public facilities ordinance;
 12 requiring that development approvals granted prior to a certain date be
 13 retroactively subject to the provisions of this Act if the projects have not been
 14 completed by a certain date; ~~authorizing the St. Mary's Board of County~~
 15 ~~Commissioners to establish certain processing fees;~~ providing for a certain
 16 penalty for failure to comply with the provisions of this Act; and generally
 17 relating to an adequate public facilities ordinance in St. Mary's County.

18 BY adding to
 19 Article 66B - Land Use
 20 Section 10.02 through 10.06
 21 Annotated Code of Maryland
 22 (2003 Replacement Volume and 2004 Supplement)

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

Article 66B - Land Use

1

2 10.02.

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

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

8 10.03.

9 THE ADEQUATE PUBLIC FACILITIES ORDINANCE SHALL CONTAIN PROVISIONS
10 THAT ADDRESS ALL OF THE FOLLOWING ESSENTIAL PUBLIC SERVICES AND
11 FACILITIES:

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

22 10.04.

23 THE ADEQUATE PUBLIC FACILITIES ORDINANCE SHALL CONTAIN PROVISIONS
24 ESTABLISHING AND ENFORCING THE FOLLOWING LEVEL OF SERVICE STANDARDS
25 FOR ESSENTIAL PUBLIC SERVICES AND FACILITIES:

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

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

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

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

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

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

13 ~~(I) THE SOURCE FACILITIES, STORAGE TANKS, AND LOCAL
14 PUMPING STATIONS HAVE SUFFICIENT AVAILABLE CAPACITY TO PROVIDE MAXIMUM
15 AND PEAK HOUR DEMAND IN ADDITION TO THE FIRE FLOW STANDARDS
16 ESTABLISHED BY THE NATIONAL BOARD OF FIRE UNDERWRITERS;~~

17 ~~(II) THE DISTRIBUTION SYSTEM IS CAPABLE OF PROVIDING
18 NORMAL REQUIRED PRESSURE AND MINIMAL RESIDUAL PRESSURE; AND~~

19 ~~(III) THE SYSTEM COMPLIES WITH APPLICABLE DEPARTMENT OF
20 THE ENVIRONMENT REGULATIONS, ST. MARY'S COUNTY HEALTH DEPARTMENT
21 REGULATIONS, AND ST. MARY'S COUNTY METROPOLITAN COMMISSION
22 REGULATIONS;~~

23 (4) A PUBLIC OR PRIVATE COMMUNITY SEWAGE SYSTEM SHALL BE
24 CONSIDERED ADEQUATE IF THE SYSTEM COMPLIES WITH APPLICABLE DEPARTMENT
25 OF THE ENVIRONMENT REGULATIONS, ST. MARY'S COUNTY HEALTH DEPARTMENT
26 REGULATIONS, AND ST. MARY'S COUNTY METROPOLITAN COMMISSION
27 REGULATIONS;

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

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

32 ~~(II) THE OFF-SITE DOWNSTREAM DRAINAGE SYSTEMS ARE
33 CAPABLE OF CONVEYING TO AN ACCEPTABLE OUTFALL THE DESIGN FLOW OF
34 STORMWATER ORIGINATING IN THE DEVELOPMENT; IT MEETS THE STATE AND
35 COUNTY REQUIREMENTS FOR STORMWATER MANAGEMENT.~~

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

1 ~~(H) A PROPOSED DEVELOPMENT MAY NOT BE SITUATED IN A~~
2 ~~MANNER THAT ENDANGERS HEALTH, SAFETY, OR GENERAL WELFARE;~~

3 ~~(7) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE~~
4 ~~ADEQUATELY SERVED BY FIRE SUPPRESSION FACILITIES IF:~~

5 ~~(I) THE DEVELOPMENT COMPLIES WITH THE WATER FIRE FLOW~~
6 ~~STANDARDS ESTABLISHED BY THE NATIONAL BOARD OF FIRE UNDERWRITERS;~~

7 ~~(H) AUTOMATIC SPRINKLERS ARE INSTALLED IN OTHER THAN~~
8 ~~SINGLE FAMILY DWELLINGS;~~

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

11 ~~(IV) THE ACCESS ROADS TO THE SITE ARE ADEQUATE FOR~~
12 ~~EMERGENCY VEHICLE OPERATIONS;~~

13 ~~(8) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE~~
14 ~~ADEQUATELY SERVED BY POLICE SERVICES IF:~~

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

17 ~~(H) THE ACCESS ROADS TO THE SITE ARE ADEQUATE FOR~~
18 ~~EMERGENCY VEHICLE OPERATIONS; AND~~

19 ~~(III) THE ST. MARY'S COUNTY SHERIFF CERTIFIES THAT ADEQUATE~~
20 ~~LAW ENFORCEMENT RESOURCES EXIST TO ABSORB THE IMPACT OF THE~~
21 ~~DEVELOPMENT;~~

22 ~~(9) A PROPOSED DEVELOPMENT SHALL BE CONSIDERED TO BE~~
23 ~~ADEQUATELY SERVED BY SOLID WASTE MANAGEMENT FACILITIES IF:~~

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

27 ~~(H) AN ALTERNATIVE METHOD OF SOLID WASTE DISPOSAL HAS~~
28 ~~BEEN APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT FOR A PERIOD OF AT~~
29 ~~LEAST 10 YEARS; AND~~

30 ~~(10)~~ ~~(6)~~ A PROPOSED DEVELOPMENT MUST HAVE ACCESS TO
31 ADEQUATE PUBLIC PARKS AND RECREATION IN ITS SERVICE AREA AS DETERMINED
32 AND CERTIFIED BY THE DIRECTOR OF THE ST. MARY'S COUNTY DEPARTMENT OF
33 PARKS AND RECREATION.

1 10.05.

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

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

7 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
8 PARAGRAPH, EXEMPTIONS TO THE PROVISIONS OF THE ADEQUATE PUBLIC
9 FACILITIES ORDINANCE MAY NOT BE AUTHORIZED FOR ANY SIZE OR TYPE OF
10 SUBDIVISIONS OR DEVELOPMENTS.

11 (II) MINOR SUBDIVISIONS OF 3 LOTS OR LESS ARE EXEMPT FROM
12 THE PROVISIONS OF THE ADEQUATE PUBLIC FACILITIES ORDINANCE.

13 (4) THE ADEQUACY OF ALL ESSENTIAL PUBLIC SERVICES AND
14 FACILITIES MUST BE PRESENT AT THE TIME ~~OF PLAN APPROVAL~~ THE USE AND
15 OCCUPANCY PERMIT IS ISSUED.

16 (5) FUTURE ADEQUACY IMPROVEMENTS CONTAINED IN THE ST. MARY'S
17 COUNTY CAPITAL IMPROVEMENT PLAN MAY NOT BE CONSIDERED UNLESS BONDING
18 HAS BEEN APPROVED FOR THE IMPROVEMENTS.

19 (6) ~~MITIGATIONS THAT DO NOT DIRECTLY CORRECT OF ADEQUACY~~
20 ~~DEFICIENCIES SPECIFIC TO A PROPOSED SUBDIVISION OR DEVELOPMENT IN~~
21 SCHOOL FACILITIES ARE NOT PERMITTED.

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

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

27 10.06.

28 ~~(A) THE ST. MARY'S BOARD OF COUNTY COMMISSIONERS IS AUTHORIZED TO~~
29 ~~ESTABLISH ADEQUATE PUBLIC FACILITIES ORDINANCE PROCESSING FEES TO~~
30 ~~RECOVER REASONABLE COSTS FROM APPLICANTS FOR THE DETERMINATION OF THE~~
31 ~~ADEQUACY OF ESSENTIAL PUBLIC SERVICES AND FACILITIES.~~

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

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

