

Montgomery County's Adequate Public Facilities Ordinance

Montgomery County's Adequate Public Facilities Ordinance is actually contained in the Subdivision Ordinance; that is, Chapter 50-35(k) - Subdivision of Land of the Montgomery County Code. The APFO was first adopted in 1973; this most recent version was adopted on November 1997.

- (k) *Adequate public facilities.* A preliminary plan of subdivision must not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined will include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics.
- (1) Periodically, the District Council will establish by resolution, after public hearing, guidelines for the determination of the adequacy of public facilities. An annual growth policy approved by the County Council may serve this purpose if it contains those guidelines. To provide the basis for the guidelines, the Planning Board and the County Executive must provide information and recommendations to the Council as follows:
 - a. The Planning Board must prepare an analysis of current growth and the additional growth that can be accommodated by future public facilities and services.
 - b. The County Executive must comment on the analyses and recommendations of the Planning Board and must recommend criteria for the determination of the adequacy of public facilities as the executive deems appropriate.
 - (2) The applicant for a preliminary plan of subdivision must, at the request of the Planning Board, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of said subdivision.
 - (3) The Planning Board must submit the preliminary plan of subdivision to the County Executive in addition to the agencies specified in Section 50-35(a).
 - (4) The Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities and services in accordance with the guidelines and limitations established by the County Council in its annual growth policy or established by resolution of the District Council after public hearing.
 - (5) Until such time as the annual growth policy or resolution of the District Council provides guidelines and limitations for the determination of the adequacy of public facilities and services, public facilities may be determined to be adequate to service a tract of land or an affected area when the following conditions are found to exist:
 - a. The tract or area will be adequately served by roads and public transportation facilities. The area or tract to be subdivided shall be deemed adequately served by roads and public transportation facilities if, after taking into account

traffic generated by all approved subdivisions and the subject subdivision, the following conditions will be satisfied:

- (i) For the geographic area in which the proposed subdivision is located, an acceptable peak-hour level of service will result from:
 - 1. Existing publicly maintained all-weather roads;
 - 2. Additional roads programmed in the current adopted capital improvements program of the County or the Maryland consolidated transportation program, for which one hundred (100) percent of the expenditures for construction are estimated to occur in the first four (4) years of the program; and
 - 3. Available or programmed bus, rail, or other form of mass transportation.
- (ii) For intersections or links significantly affected by traffic from the subject subdivision, an acceptable peak-hour level of service will result from:
 - 1. Existing publicly maintained all-weather roads;
 - 2. Additional roads identified in the approved road program published by the County Executive; and
 - 3. Available or programmed bus, rail, or other form of mass transportation.
- (iii) For the purposes of subsection (ii) above, the County Executive shall publish periodically an approved road program which shall list all roads programmed in the current adopted capital improvements program for which:
 - 1. In the case of the capital improvements program, one hundred (100) percent of the funds have been appropriated for construction costs; and
 - 2. The County Executive has determined that construction will begin within two (2) years of the effective date of the approved road program.
- (iv) For the purposes of subsections (i) and (iii) above, roads required under Section 302 of the Charter to be authorized by law are not considered programmed until they are finally approved in accordance with Section 20-1 of this code.
- (v) Any parcel zoned for light industrial use (I-1) which has been in reservation for public use pursuant to action of the Montgomery County Planning Board at any time since June 1, 1981, and which has not changed size or shape since June 1, 1958, will not be subject to the above subsection (a) if a preliminary plan was submitted prior to June 1, 1981.

- b. The tract or area has adequate water service.
 - (i) For a subdivision dependent on public sewerage and water systems:
 - 1. Said area or tract to be subdivided shall be deemed to have adequate sewerage and water service if located within an area in which water and sewer service is presently available, under construction, or designated by the County Council for extension of water service within the first 2 years of a current approved 10-year water and sewer plan.
 - 2. If the area or tract to be subdivided is not situated within an area designated for service within the first 2 years of a current approved 10-year water and sewerage plan, but is within the last 8 years of such plan, it is deemed to have adequate water and sewerage service if the applicant provides community sewerage and/or water systems as set forth in Subtitle 5 of Title 9 of Article Health-Environmental of the Annotated Code of Maryland provided the installation of such facilities has been approved by the State Department of Health and Mental Hygiene, the Washington Suburban Sanitary Commission, the Health and Human Services Department, and the Montgomery County Council.
 - (ii) For a subdivision dependent upon the use of septic systems: Said area or tract to be subdivided shall be deemed to have adequate sewerage service if development with the use of septic systems is in accordance with Section 50-27, or regulations published by the Maryland State Department of Health and Mental Hygiene pursuant to Article Health-Environmental, Annotated Code of Maryland, whichever imposes the greater or more stringent requirement.
 - (iii) In its determination of the adequacy of sewerage or water service, the Planning Board shall consider the recommendation of the Washington Suburban Sanitary Commission, the capacity of truck lines and sewerage treatment facilities and any other information presented.
- c. The tract or area is so situated as not to involve danger to health, safety, or general welfare. Such danger or injury may be deemed not to exist:
 - (i) When physical facilities, such as police stations, firehouses and health clinics, in the service area for the preliminary subdivision plan are currently adequate or are scheduled in an adopted capital improvements program in accordance with the applicable area master plan or general plan to provide adequate and timely service to the subdivision; and
 - (ii) If adequate public utility services will be available to serve the proposed subdivision; and
 - (iii) When, in the case of schools, the capacity and service areas are found to be adequate according to a methodology set forth in a resolution adopted by the District Council after public hearing; provided, however, that until such resolution by the District Council takes effect, the

Planning Board shall determine the adequacy of school facilities after considering the recommendations of the Superintendent of Schools.

- d. Existing or proposed street access within the tract or area is adequate. Street access may be deemed adequate if the streets:
 - (i) Are adequate to serve or accommodate emergency vehicles,
 - (ii) Will permit the installation of public utilities and other public services,
 - (iii) Are not detrimental and would not result in the inability to develop adjacent lands in conformity with sound planning practices, and
 - (iv) Will not cause existing street patterns to be fragmented.
- (6) For a proposed subdivision located in a Transportation Management District designated under Chapter 42A, Article II, if the Planning Board determines, under criteria and standards adopted by the Montgomery County Council, that additional transportation facilities or traffic alleviation measures are necessary to ensure that public transportation facilities will be adequate to serve the proposed subdivision, the subdivision plan may not be approved unless approval is subject to the execution of a traffic mitigation agreement.
- (7) Exemptions. Places of worship and residences for staff, parish halls, and additions to schools associated with places of worship, which are on an unrecorded parcel which has not changed in size or shape since June 1, 1958, are not subject to the provisions of section 50-35(k), "Adequate Public Facilities."