

THE EFFECTIVE DATE OF THIS ORDINANCE IS _____, 2014

ORDINANCE NO. _____

Modifications to the Adequate Public Facilities Ordinance (Adequate Public Facilities Ordinance) to Amend School Construction Fees

PREAMBLE

Pursuant to the authority of §7-101 of the Land Use Article (formerly §10.01 of Article 66B) of the Annotated Code of Maryland, the Board of County Commissioners of Frederick County (“Board” or “BOCC”) has adopted an Adequate Public Facilities Ordinance (“APFO”), which is codified as Chapter 1-20 of the Frederick County Code.

Section 1-20-23 of the APFO allows the Board to amend the provisions of the APFO if it determines that the amendment will be in the best interest of the citizens of Frederick County and consistent with the general intent of the APFO.

On July 21, 2011, by Ordinance No. 11-18-584, the BOCC revised the APFO to establish a School Construction Fee option for meeting the public school adequacy requirements. The current School Construction Fees listed in §1-20-61(E) of the APFO are as follows:

School Construction Fees			
Housing Unit Type	Failure at Elementary School Level	Failure at Middle School Level	Failure at High School Level
Single Family Detached	\$3,870	\$2,530	\$3,646
Townhouse/Duplex	\$4,053	\$1,996	\$2,584
Other Residential	\$897	\$336	\$420

The initial School Construction Fees were based on the public school impact fees collected by the County. Tischler Bise Fiscal, Economic & Planning Consultants have prepared an Impact Fee Update for Frederick County, MD dated May 27, 2014. This Impact Fee Update contains a comprehensive review and update of the impact fee calculations for Frederick County.

The Board is updating impact fees based on the Impact Fee Update, and the Board also desires to modify the School Construction Fees at this time.

The proposed changes reflected in this Ordinance were referred to the Frederick County municipalities for comment on June 5, 2014.

The Frederick County Planning Commission held a duly advertised public hearing to consider public comment and this Ordinance on June 25, 2014 and August 27, 2014. The Planning Commission recommended _____ of this Ordinance.

The BOCC held a duly advertised public hearing concerning this Ordinance on September 23, 2014. The public had an opportunity to comment on the proposed changes to the School Construction Fees at the public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-20-62 of the Frederick County Code is hereby amended to read as follows:

CHAPTER 1-20: ADEQUATE PUBLIC FACILITIES

ARTICLE VI: SCHOOLS

§ 1-20-62 SCHOOL CONSTRUCTION FEE OPTION.

(A) A developer may elect to satisfy the school adequacy standards of § 1-20-61 by the payment to Frederick County of school construction fees as described in subsection (E) below.

(B) School construction fees shall be paid in addition to, and not in lieu of, public school development impact fees under Chapter 1-22 of the Frederick County Code.

Text in CAPITALS, **bold** and/or underlined indicate matter added to existing law. [Brackets] and strike-through indicate matter deleted from existing law.

(C) The developer may elect to satisfy the school adequacy standards of § 1-20-61 by any combination of: (1) constructing the required public school facilities; or (2) waiting for the public school facilities to become adequate; or (3) paying the school construction fee.

(D) If the developer elects the school construction fee option, the APFO Letter of Understanding, and any development rights and responsibilities agreement ("DRRA"), for the development shall incorporate provisions for payment of the school construction fees.

(E) School construction fees due to the county shall be determined by using the chart below. The school construction fees shall be calculated by multiplying the appropriate school construction fee component(s) (based on the proposed development's failure to meet public school adequacy at the elementary, middle or high school level) by the number of residential units of each type.

School Construction Fees			
Housing Unit Type	Failure at Elementary School Level	Failure at Middle School Level	Failure at High School Level
Single Family Detached	\$ [3,870] <u>3,977</u>	\$ [2,530] <u>1,752</u>	\$ [3,646] <u>3,721</u>
Townhouse/Duplex	\$ [4,053] <u>4,981</u>	\$ [1,996] <u>1,533</u>	\$ [2,584] <u>2,894</u>
Other Residential	\$ [897] <u>2,181</u>	\$ [336] <u>594</u>	\$ [420] <u>1,148</u>

(F) School construction fees shall be paid at the time of recording of subdivision plats for each unit, except for multi-family units, which shall be paid not later than the time of building permit application. The school construction fees to be applied to each residential unit shall be the fees in effect at the time of plat recordation or building permit application.

(G) [Reserved.]

(H) *School Construction Fee Account.*

(1) A School Construction Fee Account is hereby established.

Text in CAPITALS, **bold** and/or underlined indicate matter added to existing law. [Brackets] and strike-through indicate matter deleted from existing law.

(2) All school construction fees that the county collects shall be deposited into the School Construction Fee Account.

(3) The School Construction Fee Account shall be interest bearing.

(4) All interest earned on monies deposited to this account shall be credited to and shall be considered funds of the account.

(5) The County Commissioners shall establish and implement necessary accounting controls to ensure that the school construction fee funds are properly deposited, accounted for, and appropriated in accordance with this chapter, and any other applicable legal requirements.

(6) The County Commissioners may appropriate funds from the School Construction Fee Account for:

(a) Public school facility expenditures as defined in § 1-20-5(B), and

(b) The payment of principal, interest and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the county or other applicable local governmental entities to finance public school facility expenditures.

(7) The Finance Division shall document each appropriation from the School Construction Fee Account.

(I) The payment of the school construction fee or the obligation to pay the school construction fee under the terms of an APFO Letter of Understanding or DRRA shall not satisfy the public school adequacy requirement for any other development served by the same school or schools as the proposed development.

(J) Upon payment of all school construction fees applicable to the proposed development, the development shall not be subject to further testing for school adequacy under the APFO for the duration of the APFO approval period under the DRRA or APFO Letter of Understanding, unless the density or intensity of the development increases.

(K) The developer shall not have the option to satisfy the school adequacy provisions of this chapter by payment of the school construction fee if any school serving or proposed to serve the proposed development exceeds 120% of state rated capacity, after taking the following factors into account:

(1) The current enrollment as of the APFO test date; and

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(2) Actual capacity expected to be provided by new schools and school additions scheduled for construction in the first 2 years of the CIP.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the changes reflected in this Ordinance are in the best interest of the citizens of the County and consistent with the general intent of the APFO.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that this Ordinance shall take effect on _____, 2014.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 23rd day of September, 2014.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

Lori L. Depies, CPA
County Manager

By: _____
Blaine R. Young
President

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