

1 **CITY COUNCIL OF THE CITY OF ANNAPOLIS**

2
3 **ORDINANCE NO. O-32-06Revised9/10/07**

4
5 **Introduced by Alderman Cordle**
6 **Alderman Arnett**

7
8 **Co-sponsored by Mayor Moyer**

LEGISLATIVE HISTORY			
First Reader:	Public Hearing:	Fiscal Impact Note:	120 Day Rule:
9/11/06	10/23/06 & 4/23/07	10/6/06	n/a
Referred to:	Meeting Date:	Action Taken:	
Rules & City Gov't	7/27/07	Awaiting new version	
Economic Matters	7/27/07		
Environmental Matters			
Planning Commission	4/20/07	Opposes adoption of O-32-06Revised Revised version substituted 4/9/07 Second revised version substituted 9/10/07 Travels with R-48-07 and R-34-06	

10
11 **AN ORDINANCE** concerning

12
13 **Adequate Public Facilities Ordinance**

14
15 **FOR** the purpose of assuring that the City provides adequate public facilities in a timely
16 manner and achieves the growth objectives of the Comprehensive Plan; assuring
17 that proposed development and redevelopment protects the public health and
18 safety, promotes the general welfare of the community, and conserves the
19 environment; assuring that proposed development and redevelopment fits
20 harmoniously into the fabric of the community; encouraging new development to
21 occur in areas of the City where public facilities are being provided; requiring new,
22 additional, or upgrades of existing facilities which are necessary to address the
23 impact on public facilities from proposed development; and matters generally
24 relating to adequate public facilities.

25
26 * * * * *

27
28 **BY** creating the following new title of the Code of the City of Annapolis, 2007 Edition:
29 Title 22

30
31 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**

1 **COUNCIL** that the Code of the City of Annapolis shall read as follows:
2

3 **Title 22 ADEQUATE PUBLIC FACILITIES**
4

5 **Chapter 22.02 PURPOSE**
6

7 A. The purposes of testing for and certification of Adequate Public Facilities are to:

- 8 1. Assure that development and redevelopment occurs in concert with the Capital
9 Improvement Program and will enable the City to provide adequate public facilities in a
10 timely manner and achieve the growth objectives of the Comprehensive Plan.
11 2. Assure that proposed development protects the public health and safety, promotes the
12 general welfare of the community, and conserves the environment.
13 3. Assure that proposed development fits harmoniously into the fabric of the community.
14 4. Encourage new development to occur in areas of the City where public facilities are
15 being provided.
16 5. Require new, additional, or upgrades to existing facilities that are necessary to address
17 the impact on public facilities from proposed development when the existing or planned
18 public facilities will not provide or maintain an adequate level of service.

19 B. Adequacy standards should be achievable within a six-year timeframe and the annual
20 Capital Improvement Program should be based on a community facilities plan that insures
21 that existing deficiencies are corrected within that timeframe.
22

23
24 **Chapter 22.04 TERMS AND DEFINITIONS**
25

26 **22.04.010 Terms and definitions.**
27

28 As used in this title, the following terms shall have the meanings indicated:

29 "Adequacy" means that adequate facilities exist or are expected to exist to serve existing
30 development and the proposed project.

31 "Applicant" means a person, partnership, firm, corporation, company, any other entity or
32 combination of entities, or an agent thereof, with an interest in the proposed development
33 and that undertakes or participates in the activities covered by these regulations, and that
34 applies for a Certificate of Adequate Public Facilities.

35 "Development" means the construction or enlargement of residential, commercial,
36 industrial, institutional or transportation uses or principal structures.

37 "Facilities" means –

38 1. public facilities provided, managed or within the exclusive control of the City of
39 Annapolis and includes

40 a. Fire, Rescue, Emergency Medical and Fire Inspection Services;

41 b. Police Protection;

42 c. Public Maintenance Services;

43 d. Water and Sewer Services;

- e. Recreational Facilities;
- f. Non-Auto Transportation;
- g. Storm Water Management;
- h. City roads (pending action on O-29-06)

2. But does not include public facilities that are not provided, managed, or within the exclusive control of the City of Annapolis but are interdependent on the control of neighboring jurisdictions, including

- a. Schools; and
- b. Roads.

"Inadequacy" means that adequate facilities are not currently available to serve existing development and the proposed project.

"Major site design plan" is as defined in Section 21.22.020.B.1 for a project covered by this title.

"Proposed Project" means all new development or redevelopment of any non-residential building or any mixed-use development of non-residential and residential uses, proposed by an applicant, where the proposed development is greater than 10,000 square feet in area or a residential subdivision of more than eleven (11) lots regardless of the square footage of the development.

"Redevelopment" means the expansion, significant rehabilitation, alteration, reconstruction, or substantial improvement of any existing principal structure on a site, which has previously been developed. The construction of new structures on an undeveloped site is not redevelopment for purposes of this title.

Chapter 22.06 APPLICABILITY

22.06.010 Applicability.

A Certificate of Adequate Public Facilities shall be required to be issued before any approval of a Major Site Design Plan application under Section 21.22.060 of the Zoning Code, and any approval of a Planned Developments under Chapter 21.24 of the Zoning Code, for all proposed projects subject to this title.

22.06.020 Certificate of Adequate Public Facilities.

Before a Certificate of Adequate Public Facilities may be issued as required by 22.06.010, the Department of Planning and Zoning shall receive the written findings and conclusion from each director or department responsible for the applicable facilities as to the adequacy or inadequacy of the facilities as specified in this title. No Certificate of Adequate Public Facilities shall be issued until such time as the written findings and conclusion from each director or department responsible for the applicable facilities are delivered and which certify the adequacy of the applicable facilities.

1 **Chapter 22.08 ADMINISTRATION**

2
3 **22.08.010 Administering Department.**

4
5 The Department of Planning and Zoning shall administer the application process for a
6 Certificate of Adequate Public Facilities, with support from each director or department
7 responsible for the applicable facilities. Each Department shall promulgate and publish in
8 documentary form and on the City website the standards the Department will use for
9 certification purposes.

10
11 **22.08.020 Submittal materials.**

12
13 An application for a Certificate of Adequate Public Facilities shall be made by an applicant
14 contemporaneously with any application for site design review and approval of a Major Site
15 Design Plan or Planned Development, under Title 21, for a proposed project. The applicant
16 shall provide any materials that the Department of Planning and Zoning may reasonably
17 require to be submitted. Any other materials related to an application for a Certificate of
18 Adequate Public Facilities shall be submitted to the Department of Planning and Zoning.

19
20 **22.08.030 Referral.**

21
22 The Department of Planning and Zoning shall promptly refer any and all materials related to
23 an application for a Certificate of Adequate Public Facilities to the each director or
24 department responsible for the applicable facilities for written findings, conclusion, and
25 certification that (a) the facilities are adequate for a proposed project, (b) the facilities will
26 be adequate for a proposed project because the project is in compliance with the provisions
27 of Chapter 22.28, or (c) the facilities are inadequate for a project

28
29 **22.08.040 Review for and issuance of Certificate of Adequate Public Facilities.**

30
31 A. After review of the application and the submitted materials in conjunction with all
32 pertinent data and measurements on the facility or facilities under review, the director of
33 each department responsible for the applicable facilities shall certify the adequacy or
34 inadequacy of the public facilities that are to serve the proposed project, based upon the
35 standards for each public facility promulgated by that director under 21.08.10. A written
36 copy of each department director's findings and conclusion shall be forwarded to the
37 Planning and Zoning Director.

38 B. Subject to Section 22.26.010, if all applicable departments have certified that the
39 proposed project can be served by adequate public facilities, the Director of Planning and
40 Zoning shall issue a Certificate of Adequate Public Facilities to the applicant. If the
41 Department of Planning and Zoning finds that one or more of the departments have found
42 inadequacy in the public facilities that would serve the proposed project, no Certificate shall
43 be issued and the Director of Planning and Zoning shall notify the applicant in order that the

1 applicant may proceed in accordance with the requirements of Chapter 22.28.

2
3 **Chapter 22.10 GENERAL REVIEW CRITERIA**

4
5 **22.10.010 Development or Redevelopment to be included.**

6
7 In determining the adequacy or inadequacy of public facilities, departments responsible for
8 the applicable facilities shall take into consideration the following:

9 A. Residential, commercial, and mixed use development and approved development
10 existing within the City, as applicable.

11 B. Proposed projects, as applicable, for which a Certificate of Adequate Public Facilities
12 has been issued under this title.

13 C. The proposed project for which an application for a Certificate of Adequate Public
14 Facilities has been applied.

15 D. The Capital Improvement Program, including projected facilities, the Comprehensive
16 Plan, and any other land use conditions that the Director of Planning and Zoning may
17 reasonably prescribe to be considered by the departments.

18
19 **22.10.020 Process.**

20
21 **A. General.**

22 1. Each director or department responsible for the applicable facilities shall, for each
23 facility, collect and maintain current information on the facility, existing levels of service, and
24 projected levels of service.

25 2. The Fire Chief and the Police Chief, respectively, shall each annually assess the
26 response times for adequate fire, rescue, and emergency services, and annual assessment
27 of officer ratio and response times for adequate police protection.

28 a. The Fire Chief and the Police Chief, respectively, shall each assess and otherwise
29 measure annually the facilities for which they are responsible, as described in this title, and
30 shall each prepare a separate report of such assessments and measurements by
31 September 1 of each year for use in conjunction with this title which shall be forwarded to
32 the Director of Planning and Zoning.

33 b. If the annual summary shows that the facilities meet the standards described in this title,
34 the facilities are adequate and all projects shall be deemed to meet the adequacy
35 standards. If the summary shows that one or more of the facilities do not meet the
36 standards described in this title, the facilities are inadequate and applicants shall proceed in
37 accordance with the requirements of Chapter 22.28.

38 3. Each director or department responsible for the applicable facilities, including the Fire
39 Chief and Police Chief, may employ persons or contract for services as may be necessary
40 to implement such information collection and assessments as described in subsections
41 (2)(a) and (b).

42 **B. Procedures.**

43 **1. Evaluation.**

44 a. Upon referral of any and all materials related to an application for a Certificate of

1 Adequate Public Facilities to the each director or department responsible for the applicable
2 facilities pursuant to Section 22.08.030, the director of the department shall assess and
3 otherwise measure the projected levels of service of the facility or facilities as impacted by
4 the proposed project in accordance with the standards required to be promulgated by this
5 title. In the director's sole discretion, the director may request that an applicant provide
6 supplemental information regarding the development or redevelopment of the proposed
7 project and estimates of the facility services that the proposed project will demand.

8 b. When a director's review and assessment of adequacy that is required by this title is
9 contingent upon the findings and conclusions of another department, the director of the
10 reviewing department shall promptly transmit copies of the materials to such other
11 departments for written comments that include recommending a finding of adequacy or
12 inadequacy of facilities with regard to the proposed project. Notwithstanding any
13 recommendation, only the director or department responsible for the applicable facilities
14 can issue a finding or conclusion as to the adequacy or inadequacy of facilities.

15 **2. Findings and Conclusion.**

16 a. Following the assessment and measurement of the projected levels of service of the
17 facility or facilities as impacted by the proposed project and, if applicable, based upon the
18 comment of other departments, the director or department responsible for the applicable
19 facilities shall determine the adequacy of facilities to serve the proposed project under
20 review.

21 b. If a director determines that the facilities under review are or will be adequate for a
22 proposed project, such findings and conclusions shall be forwarded to the Director of
23 Planning and Zoning.

24 c. If a director determines that one or more facilities is or will not be adequate for a
25 proposed project, the applicant may proceed in accordance with the requirements of
26 Chapter 22.28.

27 **3. Transmittal to Planning and Zoning Director.** Upon determining that (a) the facilities are
28 adequate for a proposed project, (b) the facilities will be adequate for a proposed project
29 because the project is in compliance with the provisions of Chapter 22.28, or (c) the
30 facilities are inadequate for a project, the director of the department shall forward a written
31 copy of such findings and explanation to the Planning and Zoning Director.

32
33 **Chapter 22.12 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE FIRE,
34 RESCUE, EMERGENCY MEDICAL AND FIRE INSPECTION SERVICES**

35
36 **22.12.010 Responsibility.**

37
38 The Fire Chief shall be responsible for review and assessment of a proposed project with
39 regard to adequacy of fire, rescue, emergency medical, and fire inspection facilities.

40
41 **22.12.020 Goal.**

42
43 The goal of adequate fire, rescue, emergency medical, and fire inspection facilities is to

1 ensure that emergency response times within the City are maintained at or above an
2 established minimum; that the deployment resources necessary to respond to both fire and
3 non-fire emergencies are maintained at or above an established minimum; that adequate
4 water supply and hydrants are available for effective firefighting and fire suppression; and
5 that an adequate fire inspection staff is maintained to perform fire and life safety inspection.

6
7 **22.12.030 Exemption.**

8
9 A proposed project that will include a sprinkler system or systems in accordance with
10 Section 17.12.010 shall be deemed to have adequate facilities under this Chapter.

11
12 **22.12.040 Standards.**

13
14 A. The standards required to be promulgated pursuant to Section 22.08.10, shall include
15 but not be limited to:

16 **1. Response Times.**

17 a. Fire incident response time for the arrival of an initial company shall be within a 4-minute
18 response time and/or initial full alarm assignment within an 8-minute response time to 90%
19 of incidents as measured annually in accordance with 22.10.020 A. 2.

20 b. Emergency Management Service (EMS) incident response time for the arrival of a first
21 responder with Automated External Defibrillator (AED) shall be within a 4-minute response
22 time to 90% of incidents as measured annually in accordance with 22.10.020 A. 2.

23 c. EMS incident response time for the arrival of an Advanced Life Support (ALS) company
24 shall be within an 8-minute response time to 90% of incidents as measured annually in
25 accordance with 22.10.020 A. 2.

26 **2. Fire Flow and Flow Duration.** Fire flow and flow duration shall be maintained at levels of
27 service throughout the City in compliance with the requirements of Section 17.20.020 and
28 the State of Maryland Fire Prevention Code as adopted by the City.

29
30 **Chapter 22.14 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
31 **POLICE PROTECTION**

32
33 **22.14.010 Responsibility.**

34
35 The Police Chief shall be responsible for review and assessment of a proposed project's
36 with regard to the adequacy of police protection.

37
38 **22.14.020 Goal.**

39
40 The goal of adequate police facilities is to ensure that law and order is maintained, the laws
41 of the City of Annapolis are enforced, and to create and sustain an environment of personal
42 safety and security of property among citizens, businesspersons, and visitors.

43

1 **22.14.030 Exemptions.**

2
3 There are no exemptions allowed for any projects.

4
5 **22.14.040 Standards.**

6
7 A. The standards required to be promulgated pursuant to Section 22.08.10, shall include
8 but not be limited to:

9 1. Officer Ratio. The ratio of police officers authorized in the current City budget to City
10 residents shall not be less than 3.2 officers per every one thousand City residents.

11 2. Average Response Time. The average response time within the City shall not be greater
12 than 2 minutes and 30 seconds for a priority one emergency response and for the initial
13 annual period. Any subsequent average response time shall not increase more than
14 10 percent from the annual period immediately prior.

15
16 **Chapter 22.16 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
17 **PUBLIC MAINTENANCE SERVICES**

18
19 **22.16.010 Responsibility.**

20
21 The Director of Public Works shall be responsible for review and assessment of a proposed
22 project with regard to the adequacy of public maintenance facilities.

23
24 **22.16.020 Goal.**

25
26 The goal of adequate public maintenance facilities is to insure that safe and efficient service
27 is provided in the areas of trash pick-up, snow removal, and road maintenance.

28
29 **22.16.030 Exemptions.**

30
31 There are no exemptions allowed for any projects.

32
33 **22.16.040 Standards.**

34
35 The standards for public maintenance services, required to be promulgated pursuant to
36 Section 22.08.10, shall be determined by the Director of Public Works.

37
38 **Chapter 22.18 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
39 **WATER AND SEWER FACILITIES**

40
41 **22.18.010 Responsibility.**

42
43 The Director of Public Works shall be responsible for review and assessment of a proposed

1 project with regard to the adequacy of adequate water and sewer facilities.

2
3 **22.18.020 Goal**

4
5 The goal of adequate water and sewer facilities is to insure that there is sufficient capacity
6 in the water storage system, the water distribution system, the sewer collection system, and
7 the sewage pumping stations owned by the municipality.

8
9 **22.18.030 Exemptions.**

10
11 There are no exemptions allowed for any projects.

12
13 **22.18.040 Standards.**

14
15 A. The standards required to be promulgated pursuant to Section 22.08.10, shall include
16 but not be limited to:

17 1. Water facilities. Each project shall be served by sufficient public water for supply and
18 reserve capacity, as determined by the Director of Public Works in accordance with
19 commonly accepted standards.

20 a. There shall be adequate storage in the facilities to satisfy the recommendations of the
21 American Water Works Association (AWWA).

22 b. In the case of the water distribution system there shall be adequate capacity within the
23 system to be able to deliver to a fire scene a minimum of 2000 gallons per minute of water,
24 at a minimum residual pressure of 20 psi at each fire hydrant.

25 2. Sewer facilities. Each project shall be served by sufficient public sewage for sewage
26 flows, as determined by the Director of Public Works in accordance with commonly
27 accepted standards.

28
29 **Chapter 22.20 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
30 **RECREATIONAL FACILITIES**

31
32 **22.20.010 Responsibility.**

33
34 The Director of Recreation and Parks shall be responsible for review and assessment of a
35 proposed project with regard to the adequacy of recreational facilities.

36
37 **22.20.020 Goal.**

38
39 The goal of adequate recreational facilities is to ensure that proposed projects contribute to
40 and are served by adequate recreational facilities.

41
42 **22.20.030. Exemptions.**

43

1 This Chapter applies to proposed projects that include residential and mixed residential and
2 commercial uses and buildings. All other proposed projects are exempt from the
3 requirements of this Chapter.

4
5 **22.20.040 Standards.**

6
7 A. The standards required to be promulgated pursuant to Section 22.08.10, shall include
8 but not be limited to:

- 9 1. 1000 square-feet of public recreational space per each single-family detached dwelling
10 unit, 750 square-feet of public recreational space per each single-family attached dwelling
11 unit, and 500 square-feet of public recreational space per each multifamily dwelling unit,
12 two-family dwelling unit, or dwelling unit above the ground floor of nonresidential uses,
13 within such proposed project or within a public recreational facility within 0.5 miles of the
14 proposed project; or
15 2. The fees in lieu of the provision of such public recreation space; or
16 3. A combination of the above.

17
18 **Chapter 22.22 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE NON-AUTO**
19 **TRANSPORTATION FACILITIES**

20
21 **22.22.010 Responsibility.**

22
23 The Planning and Zoning Director shall be responsible for review and assessment of a
24 proposed project with regard to the adequacy of non-auto transportation facilities, which
25 review and assessment shall consider recommendations of the Director of Transportation.

26
27 **22.22.020 Goal.**

28
29 The goal of adequate bicycle, pedestrian, and transit facilities is to increase accessibility
30 and to ensure reasonable and assessable alternatives to automobile travel.

31
32 **22.22.030 Exemptions.**

33
34 There are no exemptions under this Chapter for any proposed projects.

35
36 **22.22.040 Standards.**

37
38 A. The standards required to be promulgated pursuant to Section 22.08.10, shall include
39 but not be limited to:

- 40 1. Bicycle Facilities. Proposed projects shall be served by adequate bicycle facilities
41 where necessary throughout the site.
42 2. Pedestrian Facilities. Proposed projects shall be served by sidewalks where necessary
43 throughout the site, which sidewalks shall be constructed to City standards.

1 3. Transit Facilities. Where a proposed project abuts an existing or planned bus line, the
2 proposed project shall be served by a bus shelter at all existing and planned bus stops on
3 roadways throughout the proposed project.

4 4. Signalized Intersections. Signalized intersections adjacent to proposed projects shall
5 have the appurtenances necessary for adequate bicycle, pedestrian, and transit facilities,
6 including but not limited to crosswalks, signals, and non-auto curb cuts.

7
8 **Chapter 22.24 REVIEW CRITERIA AND CERTIFICATION FOR ADEQUATE**
9 **STORMWATER MANAGEMENT FACILITIES**

10
11 **22.24.010 Responsibility.**

12
13 The Director of Neighborhood and Environmental Programs shall be responsible for review
14 and assessment of a proposed project with regard to the adequacy of stormwater
15 management facilities, which review and assessment shall consider recommendations of
16 the Director of Public Works.

17
18 **22.24.020 Goal.**

19
20 The goal of adequate stormwater management facilities is to ensure that all public and
21 private stormwater infrastructure as installed within a receiving drainage area is capable of
22 handling a ten-year storm as calculated prior to installation. Consideration will be given to
23 any existing or proposed infrastructure within the study impact area downstream of the
24 point of discharge.

25
26 **22.24.030 Exemptions.**

27
28 There are no exemptions under this Chapter for any proposed projects.

29
30 **22.24.040 Standards.**

31
32 The standards required to be promulgated pursuant to Section 22.08.10, shall include but
33 not be limited to a requirement that the proposed project complies with the provisions of
34 Chapter 17.10 of the Annapolis City Code.

35
36 **Chapter 22.26 APPROVAL OR DENIAL OF CERTIFICATE OF ADEQUATE PUBLIC**
37 **FACILITIES**

38
39 **22.26.010 Approval.**

40
41 Upon determining the adequacy of all facilities, or that all facilities will be adequate because
42 a proposed project is in compliance with the provisions of Chapter 22.28, the Planning and
43 Zoning Director shall approve the application for a Certificate of Adequate Public Facilities

1 by issuing said Certificate to the applicant. The Planning and Zoning Director shall not
2 approve an application for a Major Site Design Plan until such time as an applicant is
3 issued a Certificate of Adequate Public Facilities.

4
5 **22.26.020 Denial.**

6
7 If there is a determination of inadequacy of one or more of the facilities in this Chapter and
8 if no mitigation plan has been submitted by the applicant in accordance with the provisions
9 of Chapter 22.28, the Director of Planning and Zoning shall:

10 A. Issue to the applicant a denial of the application for a Certificate of Adequate of Public
11 Facilities for such proposed project; or

12 B. Upon request of the applicant, place the proposed project on a waiting list established
13 and maintained by the Department of Planning and Zoning in consultation with the
14 applicable departments. As facilities become adequate with regard to a proposed project
15 on the waiting list because the adequacy standards have been satisfied or because the
16 applicant has submitted a mitigation plan pursuant to Chapter 22.28, the Director of
17 Planning and Zoning shall approve the application for a Certificate of Adequate Public
18 Facilities for such proposed project by issuing said Certificate to the applicant.

19
20 **22.26.030 Approval pursuant to funding for facilities.**

21
22 If a facility is scheduled to be improved under any relevant Capital Improvement Program of
23 the City, County, State or any relevant agency thereto and is funded for construction, the
24 facility shall be deemed adequate.

25
26 **22.26.040 Phased development.**

27
28 The Director of Planning and Zoning may issue a Certificate of Adequate Public Facilities in
29 conjunction with a Major Site Design Plan approval for an entire proposed project or, at the
30 request of the applicant, the Director may issue separate and successive Certificates of
31 Adequate Public Facilities for phases of a proposed project.

32
33 **22.26.050 Resubmittal.**

34
35 An application for a Certificate of Adequate Public Facilities that is not placed on the wait
36 list pursuant to 22.26.020B but is denied under 22.26.020A may not be resubmitted by an
37 applicant until after six (6) months from the date of denial.

38
39 **Chapter 22.28 MITIGATION**

40
41 **22.28.010 Opportunity to mitigate.**

42
43 A. An applicant whose proposed project is subject to denial or delay under this title shall be

1 given an opportunity to provide infrastructure funds, to improve facilities directly, or to
2 donate necessary facilities in order to allow for approval of the applicant's application under
3 this title for a Certificate for Adequate Public Facilities.

4 B. The forms and levels of mitigation required of an applicant shall be roughly
5 proportionate to the projected impact of the proposed project upon the facility or facilities
6 and shall be determined by the Director of Planning and Zoning in consultation with the
7 other departments responsible for the applicable facilities as outlined in 22.28.010.

8
9 **22.28.010 Process.**

10
11 A. Mitigation consists of the construction or funding of improvements to onsite or offsite
12 public facilities by an applicant that increase capacity or safety on each public facility that is
13 below the minimum standard so that the capacity or safety of the facility after mitigation will
14 be equal to or greater than if the proposed project had not been developed.

15 B. To determine the appropriate forms and levels of mitigation, an applicant shall consult
16 with the department responsible for review and assessment of each facility that would be
17 deemed inadequate. Once the applicant and the department agree upon the forms and
18 levels of mitigation that will offset the impact of the project upon the facility, the applicant
19 shall enter into a mitigation plan on terms and conditions acceptable to the Department of
20 Planning and Zoning in consultation with the Office of the City Attorney. The mitigation plan
21 shall require the applicant to provide the mitigation agreed upon and in return the
22 Department of Planning and Zoning shall determine that the facility or facilities will be
23 adequate for the project.

24 C. If a department finds that a facility is or would be inadequate as a result of more than
25 one proposed project, the department may apportion the responsibility and cost of
26 mitigation among all contributing projects, which apportionment shall be reflected in the
27 applicable mitigation plans.

28 D. Each mitigation plan shall be approved by the Director of Planning and Zoning as well
29 as the department responsible for the facility for which the mitigation plan approval is
30 sought. If a facility would be inadequate for a project, and if the project and the applicant
31 are unable to agree upon acceptable forms and levels of mitigation for the facility such that
32 no mitigation plan is entered into by the applicant, the department shall determine that the
33 facility is inadequate to support the project and shall forward a written copy of such findings
34 and explanation to the Director of Planning and Zoning.

35
36 **Chapter 22.30 TIMING OF CERTIFICATION**

37
38 **22.30.010 Expiration.**

39
40 A. A Certificate of Adequate Public Facilities shall expire at the end of five years from the
41 date of issuance, unless:

- 42 1. The applicant has recorded a plat or plats for the proposed project; or
43 2. The applicant has obtained a building permit for any part of the proposed project.

44 B. If a Certificate of Adequate Public Facilities expires, a new application for a Certificate of

1 Adequate Public Facilities shall be required for the proposed project. Upon new
2 application, the facilities existing or planned at the time of the new application shall control.

3
4 **22.30.020 Extensions.**

5
6 A. A request to extend the time of expiration of a Certificate of Adequate Public Facilities
7 shall be submitted to the Director of Planning and Zoning prior to the expiration of the
8 original approval.

9 B. A Certificate of Adequate Public Facilities shall be extended by the Planning and Zoning
10 Director for up to two five-year periods from the expiration of the original approval or any
11 extended approval only upon a showing of good cause and provided that the intervening
12 approvals of Certificates of Adequate Public Facilities for other proposed projects took into
13 consideration the proposed project's impact on facilities, as required by Section
14 22.10.010C.

15
16 **22.30.030 Recertification.**

17
18 A. An application for a Certificate of Adequate Public Facilities that had been previously
19 approved but had expired with regard to a proposed project shall be submitted to the
20 Director of Planning and Zoning.

21 B. The application shall be based upon updated materials and analyses of all applicable
22 facilities and standards under this title.

23 C. The materials and analyses shall include an evaluation of the development or remaining
24 development scheduled to be completed as part of the proposed project as compared to
25 any infrastructure that has already been provided for the project.

26 D. If the materials and analyses indicate that one or more facilities will not be adequate for
27 the proposed project, the applicant shall proceed in accordance with the requirements of
28 Chapter 22.28.

29
30 **Chapter 22.32 APPEALS**

31
32 **22.32.010 Appeals.**

33
34 An appeal from the decision of the Director of Planning and Zoning to approve or deny an
35 application for a Certificate of Adequate Public Facilities shall be made to the Board of
36 Appeals in conformance with the provisions of Title 21, Chapter 21.30.

37
38 **22.32.020 Stay pending appeal.**

39
40 An appeal shall stay all proceedings in furtherance of the action appealed.

41
42 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
43 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its

1 passage, and it shall apply to all projects covered by Title 22 for which an initial
2 development application was filed after July 10, 2006, as provided in Resolution No. R-21-
3 06Amended9/11/06, and it shall apply to all projects covered by Title 22 proposed on land
4 annexed comprising of parcels of one acre or more into the City of Annapolis after May 26,
5 2005, as provided in Resolution No. R-16-05Amended, thereby lifting the restrictions
6 established in Resolution No. R-21-06Amended9/11/06 and in Resolution No. R-16-
7 05Amended.

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10 **ADOPTED** this 10th day of September 2007.

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12 **ATTEST:**

THE ANNAPOLIS CITY COUNCIL

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16 _____
17 **Regina C. Watkins-Eldridge, CMC**
18 **City Clerk**

BY: _____
ELLEN O. MOYER, MAYOR

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EXPLANATION:

Highlighting indicates matter added to existing law.
Underlining and strikeouts indicate amendments.