

ADEQUATE RECREATIONAL FACILITIES UNDER CITY CODE CHAPTER 22.20


MOVING TO EQUITABLE

October 20, 2020

3:00 PM

Via Google Meets

Agenda

1. Summary from last meeting
 2. Impact fees
 3. Fee-in-lieu changes
 4. City Code changes
 5. What about equity?
 6. Next steps
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- A decorative graphic consisting of several parallel white lines of varying lengths, slanted upwards from left to right, located in the bottom right corner of the green background.

Summary from last meeting

Metrics from other jurisdictions

Several jurisdictions around us do not include recreational facilities in the APF ordinance (Anne Arundel County, Howard County, Queen Anne's County, Rockville). It's possible they have other open space/recreational requirements, maybe through their site design review or impact fees.

Of the jurisdictions that do have APF recreation, I have posted the standard on the work group webpage: <https://www.annapolis.gov/1721/Ch-2220-Recreational-Facilities>.

Impact Fees

Impact fees have two essential features: (1) they shift the cost of capital improvements from all users or taxpayers in the jurisdiction to the new residents who create the need for them, and (2) they are collected before the improvements are constructed rather than after they are in service.

Impact fees are imposed on every new house, condominium, apartment, or other dwelling unit in proportion to the impact the unit will make on the public infrastructure.

An impact fee, at least in theory, represents the proportionate share of the capital costs of providing a municipal service to an individual dwelling unit or other consuming unit which begins using that service for the first time.

<https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=1501&context=ublr>

Impact Fees—Maryland

STATUTORY AUTHORITY FOR IMPACT FEES Because counties, municipal corporations, and other local governmental bodies are creatures of the state, they can exercise only those powers delegated to them by the Maryland General Assembly.

They cannot charge impact fees, therefore, unless they have been authorized to do so by statute. Maryland courts have been strict in construing the extent of local governmental bodies' powers to raise revenues.

<https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=1501&context=ublr>

Impact Fees—Reasonable, Substantial Benefit

Association v. City of Dunedin, the Supreme Court of Florida acknowledged the reasonableness of an impact fee imposed on new users of a water and sewerage system to defray the cost of expanding the facilities. It may not impose the entire cost of new facilities on new residents unless it can show that only they will benefit from the facilities. New customers may not be required to make more than a toward the cost of new facilities which will be shared by others "fair contribution".

In Jordon v. Village of Menomonee Falls, the Supreme Court of Wisconsin developed a two-part "rational nexus" test for judging the reasonableness of impact fees. The court held that (1) there must be a "reasonable connection" between the need for the additional facilities financed by the impact fees and the growth generated by the new subdivision that will pay them; and (2) the impact fee proceeds must be expended for the "substantial benefit" of the new subdivision. The second component requires only that the use of the proceeds be "reasonably related" to the needs of the new subdivision and not that the new subdivision be the only beneficiary of the new facilities. Applying that test, the court upheld an impact fee ordinance designed to finance new schools and recreational facilities.

<https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=1501&context=ublr>

Exhibit 2
County Development Impact Fees and Excise Tax Rates

<u>County</u>	<u>Type</u>	<u>Fee/Rate Per Dwelling¹</u>		
		<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Anne Arundel ²	Impact Fee	\$1,795	\$3,590	\$8,976
Calvert	Excise Tax	12,950	12,950	12,950
Caroline ³	Excise Tax	5,000	5,000	5,000
Carroll	Impact Fee	6,836	6,836	6,836
Charles	Excise Tax	11,598	12,625	12,097
Dorchester ⁴	Excise Tax	3,671	3,671	3,671
Frederick ⁵	Impact Fee/ Excise Tax	13,733	14,283	15,185
Harford	Impact Fee	8,269	6,000 ⁶	6,000
Howard ⁷	Excise Tax/ Surcharge	See note	See note	\$2.15/sq. ft.
Montgomery ⁸	Impact Tax	31,105	33,331	33,331
Prince George's ⁹	Surcharge	20,638	20,494	20,945
Queen Anne's	Impact Fee	\$4.05/sq. ft.	\$4.25/sq. ft.	\$4.36/sq. ft.
St. Mary's	Impact Fee	4,500	4,500	4,500
Talbot ¹⁰	Impact Fee	5,684	5,957	6,113
Washington	Excise Tax	\$3.00/sq. ft.	\$3.00/sq. ft.	\$3.00/sq. ft.
Wicomico	Impact Fee	5,231	5,231	5,231

¹ Rates listed are generally those applicable to single-family detached dwellings and are per dwelling unless otherwise indicated.

2011

[HTTP://WWW.IMPACTFEES.COM/RESOURCE/STATE-LOCAL/MD_MANAGINGGROWTH_2011.PDF](http://www.impactfees.com/resource/state-local/md_managinggrowth_2011.pdf)

Fee structures vary throughout the state. In Harford County, for instance, the impact fee for a single-family detached home is a flat \$6,000. In Anne Arundel County, builders are charged depending on square footage, with a 2,500-square foot home garnering a \$14,435 fee.

[HTTPS://WWW.BALTIMORESUN.COM/MARYLAND/BALTIMORE-COUNTY/BS-MD-CO-IMPACT-FEES-20190220-STORY.HTML](https://www.baltimoresun.com/Maryland/Baltimore-County/BS-MD-CO-IMPACT-FEES-20190220-STORY.HTML)
FEB 25, 2019

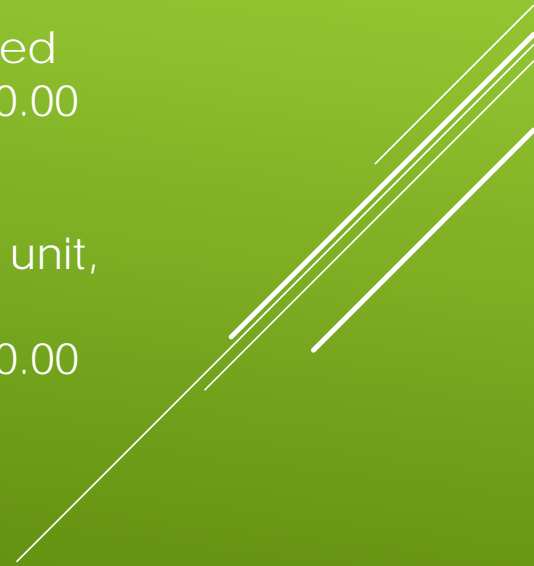
Fee-in-lieu

22.20.040

Fee in lieu of public recreational space per each single-family detached dwelling unit.....\$500.00

Fee in lieu of public recreational space per each single-family attached dwelling unit.....\$400.00

Fee in lieu of public recreational space per each multifamily dwelling unit, two-family dwelling unit, or dwelling unit above the ground floor of nonresidential uses.....\$250.00



City Code

Chapter 22.20 - Review Criteria and Certification for EQUITABLE AND Adequate Recreational Facilities

22.20.010 - Responsibility.

The Director of Recreation and Parks shall be responsible for review and assessment of a proposed project with regard to the EQUITABLE DISTRIBUTION AND adequacy of recreational facilities.

22.20.020 - Goal.

The goal of EQUITABLE AND adequate recreational facilities is to ensure that proposed projects contribute to and are served by EQUITABLE AND adequate recreational facilities THAT PROMOTE PHYSICAL ACTIVITY AND/OR A CONNECTION TO NATURE.

22.20.030 - Exemptions.

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

22.20.040 - Standards.

A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:

1. One thousand square-feet of public recreational space per each single-family detached dwelling unit, seven hundred fifty square-feet of public recreational space per each single-family attached dwelling unit, and five hundred square-feet of public recreational space per each multifamily dwelling unit, two-family dwelling unit, or dwelling unit above the ground floor of nonresidential uses, within such proposed project or within a public recreational facility within one-half miles or within a public recreational facility within one-half miles of the proposed project; or
2. The fees in lieu of the provision of such public recreation space; or
3. A combination of the above.

Waunakee, Wisconsin

PARK & OPEN SPACE, CLASSIFICATIONS/ FACILITY GUIDELINES

MINI-PARK

also sometimes referred to as a “tot lot” or “pocket park” typically located on a small lot, generally a ¼ acre or less, within a residential neighborhood or commercial business district. Mini-parks generally lack any active recreational facilities and may be limited to gardens, benches, gazebos, fountains, or other small social gathering facilities. Mini-parks typically do not have off street parking or restroom facilities. Over time they may develop into neighborhood playgrounds. Desirable size: 1.5 acres or less acres / 1,000 population: 0.25 to 0.5 acres service area: 1/8 to 1/4 mile radius

NEIGHBORHOOD PLAYGROUNDS

A neighborhood playground mainly serves the active recreational needs of children from 5 to 15 years of age, and it may offer passive recreation opportunities to adults. Neighborhood playgrounds typically consist of one or more playground apparatus, small green space/general purpose fields, and associated benches. Some neighborhood playgrounds may develop over time to include additional amenities to become neighborhood parks. Neighborhood playgrounds typically do not have off-street parking, shelters, or restroom facilities.

NEIGHBORHOOD PARKS in addition to neighborhood playground facilities, neighborhood parks often include shelter facilities, grills, basketball courts, ball diamonds, lighting, and toilet facilities. In general, neighborhood parks offer a more complete range of recreational facilities, for a wider range of age groups, in a larger setting than neighborhood playgrounds. Off-street parking and permanent restroom facilities are not as commonly found as within community parks.

COMMUNITY PLAYFIELDS

the community playfield provides for the active recreational needs of several neighborhoods. It provides more unique facilities than a neighborhood park but less facilities as compared to a community park. Examples include parks designed specifically for court games (tennis, basketball, pickleball, etc.), field games (soccer, football, ultimate frisbee) or ball games (softball, baseball). A community playfield might adjoin a public junior or senior high school. Community playfields usually include off-street parking for vehicles and bicycles, concessions and restroom facilities.

Proposed Standards

Facility and Size	SFD Per 1000		SFA per 750		MFD ET AL per 500	
	Service Area	Distance	Size	Distance	Size	Distance
MINI-PARK Sized 1 acre or less	0.25-0.5 ac	1/8 – ¼ mi radius	0.25-0.5 ac	1/8 – ¼ mi radius	0.25-0.5 ac	1/8 – ¼ mi radius
NEIGHBORHOOD PLAYGROUNDS Sized 1-3 Acres	.06-1.5 acres	¼-1/2 mile radius	.06-1.5 acres	¼-1/2 mile radius	.06-1.5 acres	¼-1/2 mile radius
NEIGHBORHOOD PARKS 3-10 Acres	1.6-2 acres	½-1 mile	1.6-2 acres	½-1 mile	1.6-2 acres	½-1 mile
COMMUNITY PLAYFIELDS 5 or more acres	3-8 acres	1-2 miles	3-8 acres	1-2 miles	3-8 acres	1-2 miles

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22.20.040 - Standards.

A. The standards required to be promulgated pursuant to Section 22.08.010, shall include but not be limited to:

1. A SET QUANTITY OF PARK AND RECREATIONS SPACE PER PERSON; or
2. The fees in lieu of the provision of such public recreation space; or
3. A combination of the above.

How we use the fee

Comprehensive Plan priorities 2009 (need to be updated?):

- ▶ Enhance existing parks and facilities, with the objective of supporting structured and informal recreation, protecting the natural environment, and encouraging human health and fitness.
- ▶ Complete the network of pedestrian and bicycle pathways.
- ▶ Expansion of the parks system should be undertaken selectively and strategically, with the objective of taking advantage of rare opportunities, providing parks and recreation services to underserved areas, allowing public access to the waterfront, and furthering environmental goals

Other documents such as the transition report: <https://talktotransition.files.wordpress.com/2018/04/leisure-4-22-final.pdf>

1. Completion of trail connections and public accessways
2. Increase the number of dog bag stations, trash and recycling receptacles at all parks and trail heads.
3. Install trail map boards and possibly water stations for humans and pets (if source water is nearby) at trail heads.
4. Create bilingual versions of all ARPD materials.
5. Develop more affordable and better water access for the residents.
6. Purchase low cost vessels for community water access such as paddleboats, kayaks, etc. Offer access initially through Truxtun Park, eventually through other city owned waterfront spaces such as City Dock, Back Creek, etc.

PRIORITY LIST

POTENTIAL PROJECTS

1. Remediate the shore line around the hiking trail at Truxtun park (starts at water access and goes around the patch of land on Spa Creek) as the shoreline is deteriorating and the trails are subject to erosion
2. Completion of the Truxtun Park tennis courts (has been ongoing and botched as it is into its 3rd year)
3. Repair and improvement of Clay Street dock, and dock in Eastport on Hawkins Cove near public housing community in Eastport for fishing and water access
4. Care and maintenance of Weems-Whalen field next to Bates Middle
5. Extension of bike trails/walking trails in and across Annapolis to connect public housing communities with public transport, shopping and other areas of the Community
6. There should be a playground within a certain number of miles from every home in Annapolis-possibly a 15 minute walk

WHAT ABOUT "EQUITABLE"?

Facility and Size	SFD Per 1000		SFA per 750		MFD ET AL per 500	
	Service Area	Distance	Size	Distance	Size	Distance
MINI-PARK Sized 1 acre or less	0.25-0.5 ac	1/8 – ¼ mi radius	0.25-0.5 ac	1/8 – ¼ mi radius	0.25-0.5 ac	1/8 – ¼ mi radius
NEIGHBORHOOD PLAYGROUNDS Sized 1-3 Acres	.0.6-1.5 acres	¼-1/2 mile radius	.0.6-1.5 acres	¼-1/2 mile radius	.0.6-1.5 acres	¼-1/2 mile radius
NEIGHBORHOOD PARKS 3-10 Acres	1.6-2 acres	½-1 mile	1.6-2 acres	½-1 mile	1.6-2 acres	½-1 mile
COMMUNITY PLAYFIELDS 5 or more acres	3-8 acres	1-2 miles	3-8 acres	1-2 miles	3-8 acres	1-2 miles

The impact fee proceeds must be expended for the "substantial benefit" of the new subdivision.

Two parts for the distance— credit given and location of new facility/location of existing facility that will be improved

Anne Arundel County

After lengthy consideration of a change to Anne Arundel County's impact fees, to better account for the costs of new development, the county enacted an ordinance in 2008 that, among other things, initially lowered both the residential and nonresidential impact fees for 2009 but increased them in 2010 and 2011 to eventually be, on average, noticeably higher than they were in 2008. The ordinance restructured the fees for residential development to be imposed at different rates depending on the total square footage of the finished area of a residential unit.

The ordinance also specifies exemptions for low-to-moderate income housing constructed by, or under a program sponsored by, a nonprofit entity in existence for at least three years and assisted living facilities, hospice facilities, hospitals, and nursing homes that will be owned and operated by a nonprofit entity in existence for at least three years.

The General Assembly approved legislation at the 2008 session (Chapter 509) that authorized the county to grant exemptions for nonprofit development.

<https://www.baltimoresun.com/maryland/baltimore-county/bs-md-co-impact-fees-20190220-story.html>

FEB 25, 2019

Next Steps

1. Strategy for authorizing impact fees
 2. Produce a defensible "in lieu of payment"
 3. Do we like the definitions from Waunakee, Wisconsin for park and open space classifications
 4. Do we want to exempt low-to-moderate income housing as we do for School APF
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