

ORDINANCE NO. O-1-07

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED "ZONING" SO AS TO CREATE NEW ARTICLE XV ENTITLED "ADEQUATE PUBLIC FACILITIES" SO AS TO REQUIRE THAT PUBLIC FACILITIES BE DEEMED ADEQUATE TO SERVE DEVELOPMENT WHICH IS SUBJECT TO VARIOUS LAND USE AND DEVELOPMENT APPROVALS AND TO SET FORTH APPLICABLE PROCEDURES AND STANDARDS FOR THE DETERMINATION THEREOF

TEXT AMENDMENT - T-377

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, Maryland, in public meeting assembled that Chapter 24 of the City Code (City Zoning Ordinance) is hereby amended to create New Article XV entitled Adequate Public Facilities", Section 24-243 through Section 24-247 to read as follows:

ARTICLE XV. ADEQUATE PUBLIC FACILITIES

Sec. 24-243. Purpose and Intent.

It is the purpose and intent of this Article to:

- (1) Implement the authority granted to the City of Gaithersburg pursuant to Article 66B, §10.01, Md Code Ann.
- (2) Control and manage growth in an orderly, efficient, cohesive and safe manner consistent with the economic and land use planning policies of the City and for the health, safety and welfare of its inhabitants.
- (3) Provide a mechanism and standards to evaluate and ensure that the public facilities hereafter specified are adequate or will be adequate to serve the needs generated by land use development in the development approval process.
- (4) Provide for the phasing or staging of development, conditional approvals including but not limited to requiring provision of public facilities and/or traffic mitigation to ensure the adequacy of public facilities.

- (5) Ensure that premature development does not occur and to require that development approvals are not rendered by an approving authority without a determination of the adequacy of public facilities or that such facilities will be made adequate within the reasonable foreseeable future.

Sec. 24-244. Applicability

This Article shall not apply to any development that has received schematic development plan approval, preliminary site plan approval, or final site plan approval prior to the effective date of this ordinance. Additionally, when a property is subject to an annexation agreement, any provision of this Article that is contrary to the annexation agreement shall not be applicable.

Sec. 24-245. Traffic Impact Study Standards

Applications for development approvals shall be subject to the requirements set forth in the Gaithersburg Traffic Impact Study Standards, to be adopted by regulation pursuant to Section 2-10 of this Code. No application for development approval shall be approved unless it complies with the requirements of Gaithersburg Traffic Impact Study Standards, or the applicant has obtained a determination from staff that the Standards are not applicable to the applicant's proposed development.

Sec. 24-246. Adequacy of School Capacity

With the exception of age restricted development, schematic development plan or preliminary site plan for residential development shall not be approved if the subject property is within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds 110% of Montgomery County Public Schools Program Capacity two (2) years in the future subject to the following:

- (a) The program capacity for each school attended by Gaithersburg residents is determined annually by the Superintendent of Montgomery County Public Schools and reported to the Board of Education in the Communities Facilities Master Plan and Capital Improvements Program.
- (b) Capacity shall be reviewed individually for each elementary school, middle school, and high school. Sharing of capacity between schools shall not be permitted.
- (c) Upon review of the current Communities Facilities Master Plan and Capital Improvements Program, the City Manager shall determine on the first business day of each fiscal year whether or not each public school attended by Gaithersburg residents is forecasted to exceed 110% of programming capacity two (2) years in the future.

Sec. 24-247. Water and Sewer Service.

- (a) **Water supply.** Development that would create a total water demand that would exceed available supply less an adequate reserve for fire-flow shall not be approved. A minimum of 1,000 gallons per minute shall be deemed adequate fire-flow for the purposes of this subsection. Final water supply adequacy shall be confirmed by the Washington Suburban Sanitary Commission (WSSC) prior to the issuance of development approvals.
- (b) **Sewer Service.** Development that would cause the City to exceed transmission capacity available at Blue Plains Wastewater Treatment Plant, Seneca Wastewater Treatment Plant or other facilities as determined by WSSC shall not be approved. Final sewer transmission capacity shall be confirmed by WSSC prior to the issuance of development approvals.

Sec. 24-248. Fire and Emergency Services.

- (a) **Fire and emergency response.** 10 minute full response availability shall be provided for all proposed development. A full response time is defined as the time required for receiving, processing, and traveling to the site of an emergency call from at least 2 stations. Fire and rescue stations included and receiving funding in the Montgomery County Capital Improvements Program (CIP) shall be countable.

ADOPTED this 2nd day of January, 2007 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 2nd day of January, 2007, APPROVED by the Mayor of the City of Gaithersburg, Maryland, this 2nd day of January.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 2nd day of January, 2007 and that the same was approved by the Mayor of the City of Gaithersburg on the 2nd day of January, 2007. This Ordinance will become effective on the 22nd day of January, 2007.

David B. Humpton, City Manager