

AN ORDINANCE TO AMEND CHAPTER 24 (CITY ZONING ORDINANCE),
ARTICLE XV, ENTITLED, "ADEQUATE PUBLIC FACILITIES,"
§ 24-246, ENTITLED, "ADEQUACY OF SCHOOL CAPACITY,"
SO AS TO DEFINE APPLICABILITY OF AND ESTABLISH A GAITHERSBURG
MONTGOMERY COUNTY SCHOOLS FACILITIES PAYMENT FEE AND WAIVER
PROVISIONS OF SECTION

Text Amendment CTAM-7036-2015

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance) Article XV, § 24-246 is amended to read as follows:

ARTICLE XV. ADEQUATE PUBLIC FACILITIES

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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 one hundred ~~ten (110)~~ fifty (150) percent of Montgomery County Public Schools program capacity five (5) 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 one hundred

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| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| Single strikethrough | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by Amendment.</i> |
| Double boldface strikethrough | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

~~ten (110) fifty (150) percent of programming capacity five (5) years in the future.~~

~~(d) Notwithstanding the foregoing, the city council may approve, by resolution, a schematic development or preliminary plan that does not exceed one hundred twenty (120) percent of programming capacity five (5) years in the future upon finding that the project is compatible with existing and proposed adjacent land uses; and:~~

~~i. The project is necessary to implement the master plan or strategic directions and attract an appropriate and compatible type or caliber of user; or~~

~~ii. The number of students generated by the development project, as determined by Montgomery County Public Schools, does not exceed the number of students associated with the existing development and projected number of students associated with proposed future development at the (development) site included in the school population forecasts five (5) years in the future.~~

(d) In addition to the Montgomery County School Impact Tax, the City shall collect, as of January 1, 2016, a Gaithersburg Montgomery County Schools Facilities Payment Fee on all development projects in the city within the attendance area of a Montgomery County Public School where any school serving the development is forecast to have a student population that exceeds one hundred and five (105) percent of Montgomery County Public Schools program capacity five (5) years in the future. .

(e) The rate imposed by the Gaithersburg Montgomery County Schools Facilities Payment Fee shall be the amount of the Montgomery County Schools Facilities Payment Fee set by the Montgomery County Government, and shall be established set by the City Council, in cooperation with Montgomery County Government, with the adoption of the City's annual budget or by separate City Council resolution.

(f) The revenue from the Gaithersburg Montgomery County Schools Facilities Payment Fee must be used to address capital needs for schools serving City residents which have been impacted by the development, and if the revenue is not so encumbered or planned for such use within fifteen (15) years after collection, the fees must be refunded to the owner of the property at the time of the refund.

(g) Other standards and implementation of the Gaithersburg Montgomery County Schools Facilities Payment Fee shall be subject to any additional requirements set forth in the Montgomery County Schools Facilities Payment Fee Standards, to be adopted by regulation pursuant to section 2-10 of this Code.

(h) The City Council, at its sole discretion, may waive the collection of the Gaithersburg Montgomery County Schools Facilities Payment Fee

and/or allow a residential development within the attendance area of a Montgomery County Public School that is forecasted to have a student population that exceeds one hundred fifty (150) percent of Montgomery County Public Schools program capacity five (5) years in the future subject to the following findings:

~~ii. The property being developed is identified within the City's Maximum Expansion Limits as defined in the City's Municipal Growth Element; and/or~~

~~iii. i. Is a property identified in either the "Frederick Avenue Corridor Land Use Plan", "Gaithersburg Olde Towne District Master Plan", or "Kentlands Boulevard Commercial District Special Study Area" the annual Strategic Plan as a priority area for (re)development; and/or~~

~~iii. Is a property located within one quarter (1/4) mile of an existing or proposed bus rapid transit station, MARC station, Metro or MTA Express Bus Service stop, or Regional Transit Center; and/or~~

~~iv. ii. Is a non-rental residential development that proposes thirty (30) percent or greater of the total fee-simple dwelling units be sold as Affordable Housing with a minimum of 15% moderately priced dwelling units and 15% workforce housing in accordance with of Article XVI of this Chapter and is in a U.S. Census Tract in which the median value of owner-occupied housing units is above 50% of the median value of owner-occupied housing for the City; and/or~~

~~v. iii. Is a development that provides either land at no cost for, funding of, or construction of a public/civic use benefitting the City of Gaithersburg.~~

ADOPTED by the City Council this 21st day of September, 2015.



JUD ASHMAN, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this 21st day of September, 2015. APPROVED by the Mayor of the City of Gaithersburg this 21st day of September, 2015.



JUD ASHMAN, MAYOR

THIS IS TO CERTIFY, that the foregoing Ordinance was adopted by the City Council of the City of Gaithersburg, in public meeting assembled on the 21st day of September, 2015; and that the same was APPROVED by the Mayor of the City of Gaithersburg on the 21st day of September, 2015. This Ordinance will become effective on the 12th day of October, 2015.



Tony Tomasello, City Manager