

Ordinance No. 808-22

An Ordinance Amending to Chapter 265,
Adequate Public Facilities of the Bel Air Town Code

WHEREAS, the Board of Town Commissioners is required, under the Land Use Article of the Annotated Code of Maryland, to maintain consistency between the Town Code and the Town of Bel Air Comprehensive Plan; and

WHEREAS, The Annotated Code of Maryland provides the authority for the Board of Town Commissioners to adopt planning and zoning controls based on the Land Use Article §7-101; and

WHEREAS, the Board of Town Commissioners has reviewed the changes to Chapter 265 to clarify requirements for provision of water, sewer, storm drain, recreation and community facilities and the addition of a section on transportation; and

NOW, THEREFORE, BE IT ORDAINED by the Bel Air Board of Town Commissioners that amendments to the Town of Bel Air Code, Chapter 265, Adequate Public Facilities, Ordinance No. 808-22, outlined below, is hereby adopted.

§ 265-2 Definitions.

For purposes of this chapter the following definitions shall be used:

BENEFITTING PROPERTY

A parcel of land that is not developed or a parcel of land **proposed for development which will increase more** ~~with less than 50% of its current value available area utilized for development~~ that benefits from a necessary improvement.

CAPITAL IMPROVEMENT PROGRAM (CIP)

The schedule of capital improvements to be undertaken as adopted in the current fiscal year's Town Budget.

CONSTRUCTION COST

The cost of a development directly associated with construction, including labor, material, equipment and administration.

DIRECTOR

~~The Town of Bel Air Director of Public Works.~~

IMPACT REQUIREMENT

Any **necessary** improvement ~~obligation~~ required as a condition of approval when all or any portion of the improvement is intended to satisfy the impact of a development on the adequate capacity of public facilities **as defined in the Development Regulations or included in the Comprehensive Plan.**

IMPROVEMENT COST

The **total** cost of required infrastructure construction, including labor, material, equipment, engineering, right-of-way acquisition and administration.

NECESSARY IMPROVEMENTS

Infrastructure improvements required by the development as determined by the Director of Public Works **and/or the Director of Planning & Community Development.**

OFF SITE

Not located on the property that is the subject of a development application.

§ 265-3 Necessary improvements.

Any applicant changing a use constructing or expanding residential, commercial, institutional or industrial properties or buildings shall be responsible for the cost of providing necessary improvements for water, sewerage, drainage facilities, **community facilities** and **transportation improvements** ~~other improvements~~, including land and easements, ~~located off site of the development but~~ necessitated by the development. The capacity and design of proposed improvements shall be based upon engineering analysis by the applicant as required by the Department of Public Works **and/or the Department of Planning & Community Development.** The analysis shall be reviewed and approved using the Harford County Water and Sewer Master Plan, Harford County Water and Sewer Design Guidelines, **Bel Air Development Regulations, Community Facilities Element of the currently** adopted Comprehensive Plan, and Capital Improvement Program (CIP) as a basis for review of proposed improvements.

§ 265-4 Allocation of costs.

- A. Full allocation. In cases where off-site improvements are necessitated by the proposed development and no other property owner(s) receive(s) a benefit thereby, an applicant is required, at **their his/her** sole expense and as a condition of site plan or subdivision approval, to provide and install such improvements. In addition, in cases where more than one property receives benefit from the off-site improvement and the estimated improvement cost is less than \$100,000 or less than 10% of the estimated construction cost (whichever is greater), the developer is required, at **their his/her** sole expense and as a condition of site plan or subdivision plat approval, to install such improvements.

- B. Allocation recoupment. In cases where more than one property will receive benefit from the off-site improvement and the estimated improvement cost is more than \$100,000 or more than 10% of the estimated construction cost (whichever is greater), an applicant is required, at ~~their his/her~~ expense and as a condition of site plan or subdivision approval, to provide and install such improvements. An applicant may enter into a recoupment agreement, to be approved by the Director of **Public Works**, to determine fair reimbursement at such time as other benefitting properties are developed. The projected development yield will be established by the Director of **Planning & Community Development** based upon the usable **undeveloped** land area within each benefitting property. The allocation formula cited in § **265-4D** shall be utilized in determining the proportionate share of the cost of such improvements attributable to each benefitting property.
- C. Delayed allocation. If it is determined that an applicant is unable to provide the necessary improvement because of the inability to acquire right-of-way, the physical constraints of a property, or state/federal regulations beyond the control of the applicant, then the applicant shall place 125% of the **approved estimated** improvement cost in an interest-bearing escrow account administered by the Town until such time as the improvement can be constructed. **The Director of Public Works shall review and approve the estimated improvement cost.** Any balance remaining after completion of and approval of construction by the Director of **Public Works** shall be refunded to the applicant. If the improvement cannot be constructed within 15 years, all monies and interest shall be returned to the applicant. However, the Town will not allow a sanitary connection to proceed without the necessary improvement in place when engineering analysis indicates that a hydraulic overload of the system occurs during wet conditions that **may** causes a sanitary overflow downstream.
- D. Allocation assessment.
- (1) Sanitary sewers. The applicant's responsibility for ~~their his/her/its~~ proportionate share of new collection facilities, including but not limited to the installation, relocation, or replacement of collector, trunk, and interceptor sewers, right-of-way acquisition and associated appurtenances, shall be computed as follows:
- (a) The capacity and the design of the sanitary sewer system shall be based on the ~~standards specified~~ **criteria** in the ~~Town~~ Standard Specifications and Details.
- (b) As required by the Director of **Public Works**, the applicant shall provide the Town with the existing and anticipated peak-hour flows, daily flows, as well as capacity limits of the affected sewer system.
- (c) If the Director of **Public Works** determines that the existing off-site system does not have adequate capacity to accommodate the applicant's flow given existing and anticipated peak-

hour flows, the applicant is responsible for the necessary improvement. If the improvement meets the criteria of § **265-4B**, the benefitting property's share shall be computed as follows:

$$\text{Impact Requirement (\%)} = \frac{\text{Benefitting Property Sewer Requirement Cost (\$)}}{\text{Total of All Necessary Improvement Cost (\$)}}$$

- (2) Water supply. The applicant's responsibility for water distribution facilities, including but not limited to the installation, relocation, or replacement of water mains, hydrants, valves, right-of-way acquisition and associated appurtenances, shall be computed as follows:
- (a) The capacity and the design of the water supply system shall be based on the standards specified in the ~~Town~~ Standard Specifications and Details **referenced by the Town Code**.
 - (b) As required by the Director **of Public Works**, the applicant shall provide the Town with the existing and anticipated capacity limits of the affected water supply system in terms of average daily demand, peak demand, and fire demand.
 - (c) If the Director **of Public Works** determines that the existing off-site system does not have adequate capacity, as defined above, to accommodate the **development's** needs, the applicant is responsible for the necessary improvement. If the improvement meets the criteria of § **265-4B**, the benefitting property's share shall be computed as follows:

$$\text{Impact Requirement (\%)} = \frac{\text{Benefitting Property Requirement Cost (\$)}}{\text{Improvement Cost (\$)}}$$

- (3) Drainage improvements. The applicant's responsibility for stormwater and drainage improvements, including but not limited to the installation, relocation, or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, acquisition of right-of-way and relocation or replacement of other storm drainage facilities or appurtenances, shall be determined as follows:
- (a) The capacity and the design of the drainage system to accommodate stormwater runoff shall be based on the standards specified in the ~~Town~~ Standard Specifications and Details **referenced by the Town Code at the time of the engineering plans approval**.
 - (b) The capacity of the improved system required for the development and areas outside of the development, tributary to the drainage system shall be determined by the applicant, subject to approval of the Director **of Public Works**. The plans for the improved system shall be prepared by the applicant along with the estimated cost of the improved system, to be approved by the Director **of Public Works**.

- (c) If the Director of **Public Works** determines the existing off-site system does not have adequate capacity, the applicant is responsible for the necessary improvement. If the improvement meets the criteria of § **265-4B**, the benefitting property's share for the proposed improvement shall be computed as follows:

$$\text{Impact Requirement (\%)} = \frac{\text{Benefitting Property Requirement Cost (\$)}}{\text{Improvement Costs (\$)}}$$

- (4) ~~Other improvements.~~ **Recreation and Community Facilities.** The applicant's responsibility for a proportionate share of ~~other~~ improvements necessitated by the proposed development, based on **the Development Regulations, the Community Facilities, and Transportation** Elements of the **currently** adopted Comprehensive Plan, including but not limited to parks and recreation, police and fire protection, shall be computed as follows:

- (a) **Recreation and Community Facilities is based upon Section 165-52, Open Space and Recreation and Section 165-118.E. Landscape and Amenity Design.**
- (b) **The number, type and location of any improvement shall also be governed by the Community Facilities and Transportation Elements in the Comprehensive Plan.**
- (c) **Should Fee-in-Lieu be approved for the necessary improvement, the current Town of Bel Air fee schedule shall apply.**
- (5) **Transportation.** The applicant responsibility for improvements necessitated by a proposed development. Fee-in-Lieu, if approved for the necessary improvement shall be computed as follows:
 - (a) **Necessary improvement shall be based on Section 165-118(D) Circulation System Design, and the Transportation Element of the currently adopted Comprehensive Plan, including but not limited to roadways, alleys, sidewalks, bike paths and associated graphics which may dictate the location, extent, and capacity of any improvement.**
 - (b) **The capacity and design of the transportation system shall be based on a Traffic Impact Analysis (TIA) using a scope of work determined by the Director of Planning & Community Development and reviewed by the Town Traffic Consultant.**
 - (c) **Any necessary improvements which meet criteria in Section 265-B or Section 265-C the benefitting property share shall be computed as follows:**

$$\text{Impact Requirement (\%)} = \frac{\text{Benefitting Property Requirement Costs (\$)}}{\text{Improvement Costs (\$)}}$$

§ 265-5 **Compliance.**

- A. An applicant cannot avoid the intent of this chapter by submitting piecemeal applications for site plan or subdivision plat approval. An applicant may seek approval for a portion of a development, provided that the impact of all previously approved site plans from that development are considered during review for each subsequent application.
- B. If an applicant requests to install the necessary improvements in separate phases of development and the Director **of Public Works and Planning & Community Development** approves, then the applicant shall place 125% of the improvement cost in an interest-bearing account administered by the Town until such time as the improvement is constructed.
- C. All terms and conditions contained in this section must be met to the satisfaction of the Director **of Planning & Community Development and the Director of Public Works** prior to issuance of a Building permit.

BE IT FURTHER ORDAINED that this Ordinance shall become effective on the _____ day of _____, 2022.

INTRODUCTION:

PUBLIC HEARING:

ENACTMENT:

EFFECTIVE:

AYES:

NAYS:

ABSENT:

Kevin M. Bianca, Chair
Board of Town Commissioners

Michael L. Krantz, Town Clerk