

Section 15-1 Introduction

This Section:

- Establishes phasing standards for new development based on the carrying capacity of Public Facilities; and
- Ensures that Public Facilities needed to support new development meet or exceed the Level of Service standards established in this section; and
- Ensures that no applications for development approval are approved that would cause a reduction in the levels of service for any Public Facilities below the Adopted Level of Service established in this Section; and
- Ensures that adequate Public Facilities needed to support new development are available concurrent with the impacts of such development, or within a reasonable period of time;
- Encourages development in areas where public services are available and underutilized; and
- Establishes uniform procedures for the review of development applications subject to the standards and requirements of this Section; and
- Establishes standards for the phasing, changes in site and development design, or proffering of public facilities in order to establish flexibility, avoid the unreasonable delay of development approval, and to promote the County's planning policies.

Section 15-2 *How to Use this Chapter*

Information in this Chapter is organized as follows:

What do the words and phrases used in this Chapter mean?	Section 15-3
What types of uses and permits does this Chapter apply to?	Section 15-4
What do I submit with my application?	Section 15-5
How is my application processed? Who determines whether facilities are adequate?	Section 15-6 and 15-7
What happens if facilities are adequate? What if facilities are presently inadequate? What conditions will apply to my application if facilities are inadequate?	Section 15-7
If facilities are not adequate, do I always have to phase my development or wait until they are adequate? Or, do I have the option to provide the facilities so that I can move my plans forward?	Section 15-7
Where (over what area) are facilities required to be adequate? What if my project has impacts outside of Cabarrus County, or is located in a municipality in the County?	Section 15-9, with some particular rules in Sections 15-9 through 15-20.
If facilities are determined to be adequate or conditions are imposed, how long does this determination last? What effect does it have on other permits that I need? If my project does not build out for awhile, will I have to go through the determination again?	Section 15-6
What are the standards for assessing whether or not facilities are "adequate"?	Sections 15-10 through 15-20
What if I am already partially through the permitting process? Do I have to comply with this Chapter? If so, what requirements apply?	Section 15-21

Section 15-3 *Basic Terms and Definitions*

Adopted Level of Service

A measurement that quantifies a specific amount, frequency, capacity, or response time of a public facility. The Adopted Level of Service is established in Section 15-9.

Adequate or Adequacy

A determination that facilities that are considered available comply with the Adopted Level of Service standard.

Applicant

Any person, corporation, or entity who submits an application that is subject to this Chapter (refer to Section 15-4).

Available

"Available" means that a Public Facility either: (1) exists and is operational, or (2) the Public Facility is Planned Capacity that is included in the methodology for determining compliance with this Chapter for a specific facility (refer to Sections 15-12 through 15-20).

Available Capacity

Existing or Planned Capacity of Public Facilities that is not already committed to existing or planned development, as provided in Section 15-11.

Application for Development Approval or Application

Any application that would permit the development or establishment of a use that is subject to this Chapter (refer to § 15-4). This includes any application for subdivision plat approval or administrative site plan approval for multi-family projects.

Capacity

The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

Capital Improvement

A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the County, Cabarrus County School District, Kannapolis School District, special district, or a public service provider.

Capital Improvement, Planned

See "Planned Capital Improvement."

Capital Improvements Program

A plan that describes the capital improvements that will be provided over a given time period. A "Capital Improvements Program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities. The Capital Improvements Program includes the most recent: Cabarrus County Capital Improvement Program (CIP), and 15-Year Facilities Plan for the applicable school district.

Committed Development

Committed Development includes:

- development with an approved determination that public facilities are adequate; and
- developments that are approved, but are unbuilt. This includes unbuilt preliminary subdivision plats, minor plats, final plats, or building permits.

Currently Available Revenue Sources

An existing source or amount of revenue that:

- is presently available to the County or the entity providing a Public Facility; and
- may be allocated towards capital expenses; and
- has been budgeted for the capital disbursements or debt service account applicable to a planned capital improvement.

This term does not refer to a mere intent to increase the future level or amount of a revenue source, nor to a revenue source that is contingent on ratification by a public referendum. Mitigation that is guaranteed in a Public Facilities Mitigation Agreement is considered a Currently Available Revenue Source.

Public Facilities Mitigation Agreement

An executed contract between the County and an Applicant that formally sets forth development approval and requirements to achieve Adequacy. A Public Facilities Mitigation Agreement is a regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in this Article and, where the denial or deferral of development approval is disputed by the Applicant, to effectuate the public policy favoring the settlement of disputes. A Public Facilities Mitigation Agreement includes any Reimbursement Agreement (G.S. Section 153A-451, 160A-499), Public Enterprise Improvement Agreements (G.S. Section 153A-280 or 160A-320), Development Agreement (G.S. Sections 153A-379.1 et. seq. or 160A-400.20 et seq), or Site Specific Development Plan or Phased Development Plan (G.S. Section 153A-344.1, 160A 385.1), in which the Applicant lawfully agrees to provide improvements that mitigate the impacts of the Proposed Development.

Development Order

An official decision to approve any application that is subject to this Chapter. This includes any decisions to approve a subdivision plat or to administratively approve a site plan (for projects not requiring subdivision approval).

Existing Demand

The present, actual utilization of Public Facilities capacity from existing (built) development. Examples include existing school enrollment, trip counts, or calls for service.

High School Feeder Area

A grouping of schools consisting of one or more high schools and one or more middle and elementary schools, as determined by the School District.

Impact Area

The area in which a proposed residential development is presumed to create a demand for Public Facilities. This area is evaluated to determine adequacy. (Refer to Sections 15-9 and 15-12 through 15-20 of this Chapter.)

Level of Service

Level of Service indicates the capacity per unit of demand for each public facility. It is an indicator of the extent or degree of service provided by a facility. This indicator is based upon and related to the operational characteristics of the facility.

Minor Subdivision

A "minor subdivision," as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations.

Mitigation

An agreement by the applicant, as a condition of approval and as part of a Public Facilities Mitigation Agreement, to advance Public Facilities by mitigating its impacts. (Refer to Section 15-7.3 d) and e) for mitigation conditions). Mitigation may involve a monetary Voluntary Mitigation Payment (VMP) to the County, the actual construction or provision of needed facilities to Cabarrus County for the School District, or any other mechanism that adds student capacity to the School District as approved by the Cabarrus County Board of Commissioners.

Mobile Home

A "mobile home" or "manufactured home" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Mobile Home Park

A "mobile home park" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Multi-family

Any "multi-family" dwelling as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Phasing

A condition of approval that imposes a buildout schedule that is tied to future increments of Planned Capacity.

Planned Capacity

Unbuilt capacity that is included in the Capital Improvements Program, consistent with the standards provided in Section 15-10.

Planned Capital Improvement

A Capital Improvement that is scheduled for completion of construction within a period not to exceed six (6) years in a Capital Improvements Program.

Proposed Development

The development that is proposed in an Application for Development Approval, including all dwelling units, non-residential floor area, or other increments of demand on Public Facilities that would be created if the Application were approved.

Public Facilities

For purposes of this section, Capital Improvements for Public Schools.

Residence, single family detached

A "residence, single family detached" as defined in Chapter 2 of the Cabarrus County Zoning Ordinance.

Reviewing Agency

The agency that reviews and that has jurisdiction to approve, approve with conditions, or deny an Application. (Refer to Section 15-6 for a summary of the Reviewing Agencies).

Student Generation Rate

The figure (stated as the number of students per dwelling unit) to be multiplied by the number of proposed dwelling units, by type, in order to determine projected enrollment. This may be computed using the school district or North Carolina Student Information Management System data, Census data, or similar data, and actual numbers of dwellings to determine expected students/dwelling.

Subdivision

A "subdivision," as defined in Chapter 2, Section 1 of the Cabarrus County Subdivision Regulations.

Townhouse

A one family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Voluntary Mitigation Amount

A figure that represents the per-unit cost of providing mitigation, which may be used as a basis for providing voluntary payments to the County or the School Districts in lieu of deferring development.

Section 15-4 Applicability

1. This Chapter applies to any:
 - a) any division of property, except for a minor subdivision (as defined in Chapter 2, Section 2 of the Cabarrus County Subdivision Regulations), and
 - b) attached single-family units, townhouse projects, or multi-family buildings,
 - c) mobile home park located in Cabarrus County, including any incorporated areas or
 - d) any other project creating an increase in the amount of residential units within Cabarrus County.
2. This Chapter does not apply to any use, development, project, structure, fence, sign or activity that does not create an impact on Public Facilities.
3. For multi-family buildings, mobile home parks or other residential projects that do not require subdivision plat approval, this Chapter shall apply to any site plan required for approval of the proposed development.

Section 15-5 Submittal Requirements for Reservation of Capacity

1. An application for Reservation of Capacity Certificate must include all information required by this Chapter and all required processing fees. No application for consideration subject to this Chapter will be accepted, approved, granted or issued unless it provides sufficient information to determine whether the capacity of Public Facilities is adequate to support the proposed development.
2. For purposes of this Chapter, the following information must be submitted with the application for development approval:
 - a) the number of proposed dwelling units; and
 - b) the applicable high school feeder area; and
 - c) if the applicant has determined that public facilities are not presently available after initial consultation with staff, a phasing schedule or plan

for the advancement of capacity must be provided as part of the application; and

- d) the name of the development.
3. Staff will determine whether the Reservation of Capacity Certificate application is complete and whether it complies with the applicable submission requirements. If the application is incomplete or the submission requirements have not been complied with, staff will notify the Applicant and specify the deficiencies.
 4. If the application is complete and the submission requirements have been complied with, staff from the School Districts and the Cabarrus County Commerce Department will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the form of a staff report to the Cabarrus County Board of Commissioners.
 5. If the application is incomplete, staff will return the application to the applicant with an explanation of the deficiencies, and no further processing will occur until the deficiencies are corrected.

Reservation of capacity applications shall not be submitted or processed with rezoning application requests or conditional use rezoning requests.

At the time of application for reservation of capacity, all applicable zoning designations and zoning districts must be in place.

Section 15-6 Application Processing

1. Staff Review

If the application for the Reservation of Capacity Certificate is complete and the submission requirements have been complied with, Cabarrus County Commerce Department and the School District Staff will evaluate the application for compliance with the Adopted Level of Service and submit a recommendation in the staff report.

2. Determination

The determination of whether public facilities are adequate is made as part of the procedure for approving the Reservation of Capacity Certificate application (see Criteria).

If the Reservation of Capacity Certificate review determined that mitigation is required for the project to proceed, once a Development Order has been granted from the

appropriate jurisdiction, the applicant shall enter into a Public Facilities Mitigation Agreement with the Cabarrus County Board of Commissioners for the project.

3. Decision

The Reviewing Agency's decision must include the following, based upon the application and evidence in the record:

- the number of dwelling units proposed by the Applicant, by type, for each Public Facility;
- the phasing of the proposed development, if applicable;
- the specific Public Facilities impacted by the proposed development;
- the extent of the impact of the proposed development in the applicable Impact Areas;
- the Capacity of existing Public Facilities in the Impact Areas that will be impacted by the proposed development;
- the demand on existing Public Facilities in the Impact Areas from existing and approved development;
- the availability of Existing Capacity to accommodate the proposed development; and
- if Existing Capacity is not available, Planned Capacity and the year in which such Planned Capacity is projected to be available.

4. Duration of Reservation of Capacity

Once the applicant has submitted an application for a Reservation of Capacity and said application is reviewed, if the Reservation of Capacity Certificate is approved, said Certificate shall be valid for a period of 12 months from date of issue by the Cabarrus County Board of Commissioners. In the event that a Reservation of Capacity of Certificate expires, the applicant shall begin the process again and shall be subject to any ordinances, regulations, policies or resolutions in place at that time.

5. Extensions for Reservation of Capacity Certificate

No extensions shall be granted for a Reservation of Capacity Certificate that has been issued by the Cabarrus County Board of Commissioners.

6. Public Facilities Mitigation Agreement.

Applicant shall enter into a Public Facilities Mitigation Agreement with the Cabarrus County Board of Commissioners once a Development Order has been granted from the appropriate jurisdiction. Said Public Facilities Mitigation Agreement shall identify and incorporate the terms of the approved Reservation of Capacity Certificate.

- a) The Public Facilities Mitigation Agreement is a regulatory document containing specific conditions of development approval as defined in the Reservation of Capacity Certificate and designed to implement the

policies and criteria contained in this Chapter and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes.

- b) The Public Facilities Mitigation Agreement must contain an integrated development scheme for a particular phase or phases of development approval, along with maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Chapter.
- d) The Public Facilities Mitigation Agreement must be approved by the Cabarrus County Board of Commissioners. The Public Facilities Mitigation Agreement will be reviewed at a normal meeting of the Board of County Commissioners, unless a special meeting is convened for this purpose. The meeting may be continued from time to time as needed to resolve issues raised by the applicant or Commissioners.

Section 15-7 Determination of Adequacy for Reservation of Capacity Certificate

When the Reservation of Capacity Certificate application is reviewed by the Cabarrus County Board of Commissioners, the Board shall take one of the following actions:

1. Approval of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners concludes that public facilities are presently available at the Adopted Level of Service, including the overall enrollment projected to be generated by the proposed development, it shall approve the Reservation of Capacity Certificate application without any of the conditions required by this Chapter.

2. Denial of the Reservation of Capacity Certificate

If the Cabarrus County Board of Commissioners determines that any Public Facility will not be available at the Adopted Level of Service based upon Available Capacity, the Cabarrus County Board of Commissioners may deny the application or as an alternative, the Cabarrus County Board of Commissioners may approve the Reservation of Capacity Certificate application with conditions as provided in subsection 3, below.

3. Conditions of the Reservation of Capacity Certificate

The Cabarrus County Board of Commissioners may require, or the Applicant may consent to, conditions that reduce or mitigate the impacts of the proposed development. Conditions may include a combination of the following:

- a) deferral of final plats, building permits or certificates of occupancy until all Public Facilities are available and adequate if Public Facilities in the Impact Area are not adequate to meet the Adopted Level of Service for the

entire development proposal, consistent with the requirements of this Chapter;

- b) phasing of final plats, building permits or certificates of occupancy so that future increments of development are constructed to coincide with available capacity;
- c) reduction of the density or intensity of the proposed development to a level consistent with the Available Capacity of Public Facilities;
- d) provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur;
- e) conditions agreed upon by the applicant to advance, or partially advance the Public Facilities necessary to provide capacity to accommodate the proposed development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of capacity are included in Section 15-8; or
- f) any other reasonable conditions to ensure that all Public Facilities will be adequate and available concurrent with the impacts of the proposed development.

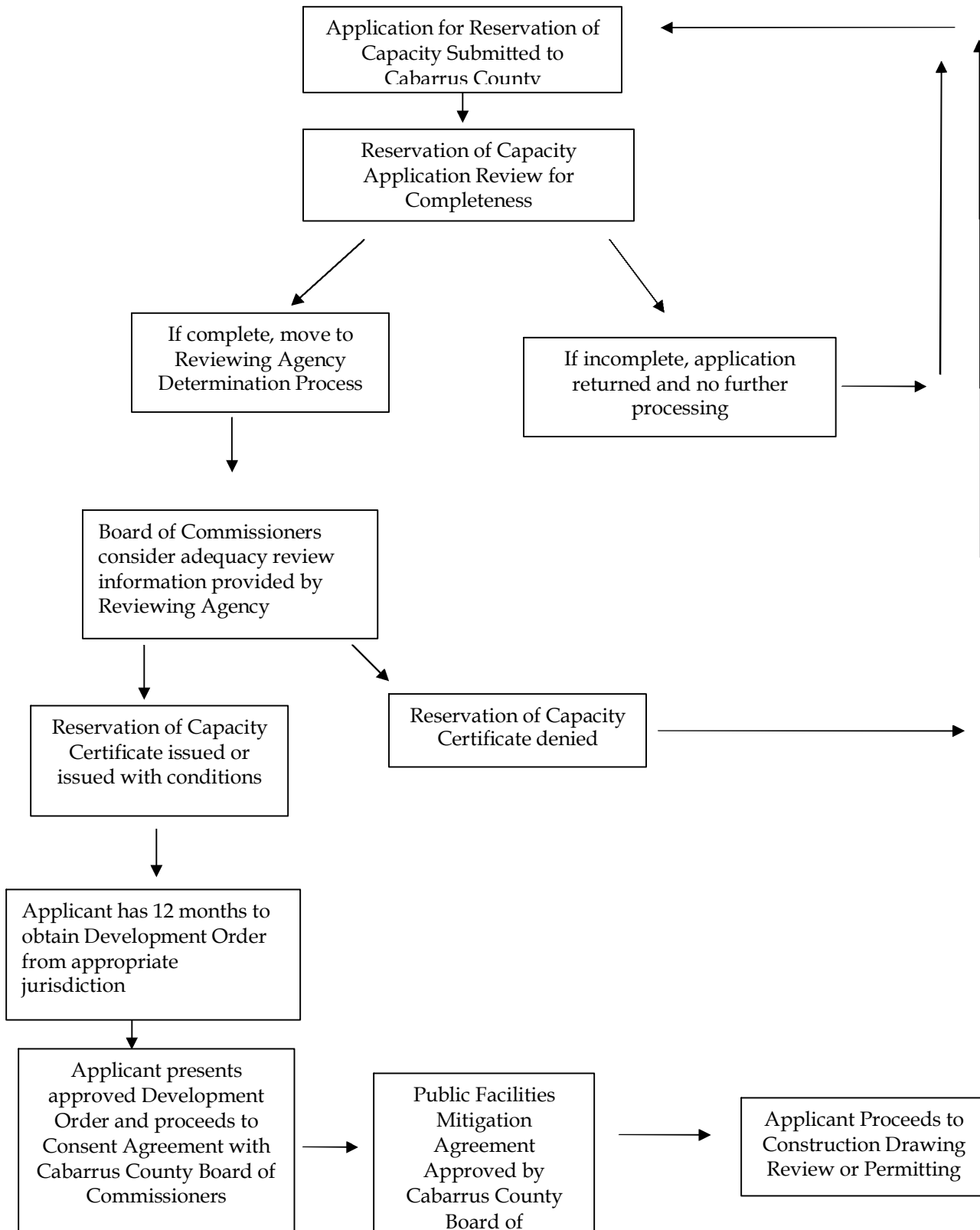
Section 15-8 Mitigation Measures for Reservation of Capacity Certificate Consideration

1. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development.
2. Any Mitigation, including any monetary contribution, land donation or construction of Public Facilities, shall be paid or completed prior to the issuance of any affected building permit within the subject development.
3. The method to address Adequacy and a requirement that it shall be completed prior to the time of building permit application shall be included in the Public Facilities Mitigation Agreement.
4. If mitigation involves the construction of Public Facilities, the commitment to construction of Public Facilities prior to the issuance of a building permit shall be

included as a condition of the determination. The determination must include the following, at a minimum:

- a) For Planned Capital Improvements, a finding that the Planned Capital Improvement is included within the Capital Improvements Program of the school district or applicable service provider;
- b) an estimate of the total financial resources needed to construct the Planned Capital Improvement and a description of the cost participation associated with the improvement;
- c) a schedule for commencement and completion of construction of the Planned Capital Improvement with specific target dates for multi-phase or large-scale Capital Improvement projects;
- d) a statement, based on analysis, that the Planned Capital Improvement is consistent with the applicable *Area Plan*; and
- e) at the option of the County Commission and only if the Planned Capital Improvement will provide Capacity exceeding the demand generated by the proposed development, reimbursement, or a method to affect reimbursement, to the Applicant for the pro rata cost of the excess Capacity.

Reservation of Capacity Process



Section 15-9 Impact Areas

1. General

- a) Except as provided below, availability and adequacy of Public Facilities are determined only with respect to Public Facilities located within the unincorporated areas of Cabarrus County. If part of the impact area lies in a municipality in the County or an unincorporated area of Mecklenburg, Union, or Rowan Counties, absent an intergovernmental agreement with the County or municipality, availability and adequacy are determined only with respect to Public Facilities located within unincorporated Cabarrus County.

- b) Per Session Law 2004-39, H.B. 224, Cabarrus County may review proposed developments within an incorporated area of the County for compliance with the Level of Service standards for schools.

2. Intergovernmental Agreement.

If the County Commission has entered into an intergovernmental agreement with an adjacent county or with a municipality to evaluate Public Facilities in such areas, an Applicant is subject to the evaluation of the Level of Service standard for the facility as adopted by the adjacent county or municipality. Prior to the request for Reservation of Capacity Certificate being presented to the Board of Commissioners, the Zoning Administrator will require that the adjacent county or municipality certify the proposed development will not cause a reduction in the Level of Service standards for those facilities lying within the adjacent county or the municipality.

- 1. For purposes of this Ordinance, the student generation rate for each category of schools shall be as follows:

Type of Unit	Type of School			
	Elementary	Middle	High	Total
Single Family Detached	.318	.139	.124	.581
Townhouse	.165	.057	.082	.304
Multi-Family/Other	.150	.055	.072	.277

Sources: Cabarrus County Planning Services Department; Cabarrus County Schools-Facility Planning Division, *Schools Voluntary Mitigation Payment Study*, TischlerBise, December 19, 2006.

Projected enrollment from the proposed residential development and enrollment generated by Committed Development consists of the sum of all proposed dwelling units or dwelling units permitted on platted lots, multiplied by the student generation

rate. The above-referenced figures may be adjusted from time to time by the County Commission by amending this Ordinance to reflect updates to the student generation rate calculated by the Cabarrus County Planning Services Department.

2. The Reviewing Agency will determine whether public schools within the County have sufficient available capacity and acreage to accommodate the demand generated by the proposed residential development at the adopted level of service. Available capacity shall be calculated for the applicable high school feeder area and shall be expressed in terms of possible student enrollment which can be accommodated, in accordance with the following formulae:

$$\text{Formula \#1: } CAC = (EC) - (E + C)$$

$$\text{Formula \#2: } FAC = (EC + PC_2) - (E + C)$$

$$\text{Formula \#3: } FAC = (EC + PC_5) - (E + C)$$

where:

Variable	Meaning
CAC	Current Available Capacity, in student enrollment.
FAC	Future Available Capacity, in student enrollment.
EC	110% of Existing Capacity, in enrollment, for elementary, middle and high schools within the high school feeder area. The capacity of school facilities shall be computed in accordance with the North Carolina Public Schools, <i>Facilities Guidelines</i> (January 1997), "Class Sizes and Teacher Allotments," This document is hereby incorporated by this reference and made a part of this Ordinance.
PC	Planned Capacity, in enrollment, for funded but unbuilt elementary, middle and high schools within the high school feeder area based upon the applicable School District 15 Year Facilities Plan, more specifically the Critical Project List, which are incorporated by this reference.
PC ₂	PC (Planned Capacity), as defined above, based on the first two (2) years of the School District 15 Year Facilities Plan Critical Project List.
PC ₅	PC (Planned Capacity), as defined above, based on the first five (5) years of the School District 15 Year Facilities Plan Critical Project List.
E	Current enrollment based upon the most recent enrollment counts per monthly membership report as provided by the School District Staff
C	Enrollment generated by all Committed Development within the high school feeder area

- If current available capacity is equal to or greater than zero (0) (Formula #1 of subsection 1, above), and adequate capacity exists to accommodate the enrollment projected to be generated by the proposed development, school facilities are *adequate*.

If current available capacity for any school type is a negative number, adequate capacity does not currently exist to accommodate the enrollment projected to be generated by the proposed development.

- If current available capacity is inadequate, Formula #2, above, is applied (**two (2) years of planned capacity**). If future available capacity is equal to or greater than the projected enrollment that will be produced by the proposed development for all school types, the development may be approved with conditions related to phasing or mitigation, and the applicant shall be permitted to proceed through the development approval process.

If future available capacity pursuant to Formula #2, above, is less than zero (0), the applicant is permitted the following number of dwelling units per year:

- 1) For a subdivision that consists of single family detached residences, the greater of 5 dwelling units per year or 10% of the proposed number of dwelling units, but no more than 15 dwelling units per year.
 - 2) For townhouses, 10 dwelling units each year or 10% of the number of dwelling units, whichever is greater, but no more than 15 dwelling units per year.
 - 3) For multifamily or other residential units, 11 dwelling units each year or 10% of the total number of units, whichever is greater, but no more than 20 dwelling units per year. This subsection applies to a proposed development that includes a mix of housing types that includes both single family detached residences and townhouses or multifamily/other dwelling units.
- b) These dwelling units shall not be constructed until the two years has expired unless the applicant agrees to provide mitigation measures for the project that defray the pro-rata impacts on school facilities for each dwelling unit constructed during the initial two year period.
5. If future available capacity pursuant to Formula #2 is less than zero (0), Formula #3, above, is applied (**five (5) years of planned capacity**). If future available capacity is then greater than or equal to the projected enrollment that will be produced by the proposed development for all school types, the application will only be approved with the following conditions:
- a) that Currently Available Revenue Sources are committed to all Public Facilities in the Capital Improvements Program that are needed to accommodate the impacts of the development; and
 - b) that phasing conditions are included that link the timing of new development to Planned Capacity that will be available, as shown in the Capital Improvements Program or that is guaranteed by Mitigation as provided in subsection c), below; and
 - c) the applicant has agreed to Mitigation for its pro-rata share of Planned Capacity.
6. If future available capacity pursuant to Formula #3, above, is less than zero (0), the applicant is permitted the following number of dwelling units per year:

- 1) For a subdivision that consists of single family detached residences, the greater of 5 dwelling units per year or 10% of the proposed number of dwelling units, but no more than 15 dwelling units per year.
 - 2) For townhouses, 10 dwelling units each year or 10% of the number of dwelling units, whichever is greater, but no more than 15 dwelling units per year.
 - 3) For multifamily or other residential units, 11 dwelling units each year or 10% of the total number of units, whichever is greater, but no more than 20 dwelling units per year. This subsection applies to a proposed development that includes a mix of housing types that includes both single family detached residences and townhouses or multifamily/other dwelling units.
 - b) These dwelling units shall not be constructed until the five years has expired unless the applicant agrees to provide mitigation measures for the project that defray the pro-rata impacts on school facilities for each dwelling unit constructed during the initial five year period.
 - b) For any year where a phasing schedule as provided in subsection a) applies, the applicant may elect to retest its remaining development against future available capacity. If the remaining development then meets Formula #1, Formula #2, or Formula #3, above, as certified by the Cabarrus County Commerce Department, the applicant may proceed subject to the conditions that apply to that formula. This subsection does not apply unless the Cabarrus County Commerce Department determines that the subsequent buildout, phasing or mitigation complies with this section.
6. Applicants may propose mitigation measures to overcome a failure to meet one or more LOS standards including, but not limited to, payment of a pro rata share of facility capacity costs necessary to accommodate the demand generated by the proposed development or timing the proposed development so that phasing is linked directly to available capacity.
 7. Mitigation measures that involve the payment of money to the County or School District to defray the per-unit impacts of school facilities must be based on calculated capital costs associated with new construction. The capital costs shall be re-assessed every five years. The Board of Commissioners shall adopt the minimum mitigation amount based upon that calculation and the annual rate of inflation. The Marshall and Swift valuation service shall be the index used to calculate the rate of inflation. The

minimum amount of the Voluntary Mitigation Payment shall be adjusted and the new amount shall be effective as of January 1 of each year.

The Board of County Commissioners may reduce the Voluntary Mitigation Payment if the applicant demonstrates that actual per-unit costs are less than the amount shown. This demonstration may take into consideration a reduction in the payments due to other contributions of taxes, fees, or similar payments from the proposed development that are reserved for capital improvements.

Section 15-10 to 15-20 Reserved

Section 15-21 Approved Projects and Projects Currently Under Review

1. Either approval of a subdivision preliminary plat by an incorporated municipality in the County or approval by the County of a preliminary plat prior to the effective date of this chapter and prior to the June 18, 2007, resolution of the Board of County Commissioners increasing the Voluntary Mitigation Payment shall permit the applicant to pay the following Voluntary Mitigation Payment amount previously adopted by the Cabarrus County Board of Commissioners:

Residence, single-family detached	\$4,034
Apartment	\$1,869
Townhouse	\$2,825
Mobile home	\$3,865
Duplex, triplex, or quadruplex	\$2,938

2. The Board of County Commissioners may accept substitute or additional mitigation offered by the applicant in order to settle pending or threatened litigation, and to advance public policy favoring the settlement of disputes.
3. All other applications pending with the County or with any incorporated municipality within the County must comply with this Chapter. However, applicants may appeal this requirement using any procedures established by this Chapter or the Subdivision Ordinance.
4. If any portion, clause or sentence of this ordinance shall be determined to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this ordinance.
5. This ordinance shall take effect and be in force from and after August 20, 2007.