

**COUNCIL OF THE TOWN OF LA PLATA**  
**Ordinance 05-1**

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<b>Introduced By:</b>	<b>Mayor William F. Eckman</b>
<b>Date Introduced:</b>	<b>January 25, 2005</b>
<b>Planning Commission Public Hearing:</b>	<b>[Not required]</b>
<b>Town Council Public Hearing:</b>	<b>[Not required]</b>
<b>Amendments Adopted:</b>	<b>None</b>
<b>Date Adopted:</b>	<b>February 8, 2005</b>
<b>Date Effective:</b>	<b>February 24, 2005</b>

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1 **An Ordinance** concerning

2 **School Seat Allocation Policy**

3  
4 **FOR** the purpose of establishing a policy, a methodology and a process for the Town to determine  
5 and allocate available school seats in the Charles County Public Schools; prohibiting the  
6 approval of certain final plats of subdivision unless sufficient school seats are available for  
7 allocation to the proposed subdivision in accordance with the allocation policy and process;  
8 requiring as a condition of approval and issuance of a building permit for a residential  
9 dwelling unless sufficient school seats are available for allocation to the proposed dwelling in  
10 accordance with the allocation policy and process; providing certain exemptions from the  
11 requirements of this Ordinance; providing appeals from certain determinations and decisions  
12 relating to the allocation of school seats; establishing a temporary moratorium on the approval  
13 of final plats of subdivision and the issuance of certain residential building permits; providing  
14 that the provisions of this Ordinance are severable; and all matters generally relating thereto.

15  
16 **BY** adding  
17 Chapter 75 – Building Construction  
18 Article VI. Miscellaneous Building Requirements  
19 Section 75-12A  
20 Code of the Town of La Plata  
21 (1998 Edition and Supplements)

22  
23 **BY** repealing and reenacting, with amendments  
24 Chapter 173 – Subdivision and Land Development  
25 Article IV. Plan Requirements and Procedures

26 Sections 173-24.B(2) and E.  
27 Code of the Town of La Plata  
28 (1998 Edition and Supplements)

29  
30 **BY** adding  
31 Chapter 173 – Subdivision and Land Development  
32 Article IX. School Seat Allocation Policy  
33 Sections 173-92 through 173-101  
34 Code of the Town of La Plata  
35 (1998 Edition and Supplements)

36  
37 **SECTION 1: BE IT ENACTED BY THE COUNCIL OF THE TOWN OF LA PLATA**  
38 that a new Section 75-12A be added to the Code of the Town of La Plata (1998 Edition and  
39 Supplements), to follow immediately after Section 75-12, and to read as follows:

40  
41 **Chapter 75 – BUILDING CONSTRUCTION**  
42 **Article VI. Miscellaneous Building Requirements**

43  
44 **75-12A SCHOOL SEAT ALLOCATION.**

45  
46 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE, A BUILDING  
47 PERMIT MAY NOT BE ISSUED FOR THE CONSTRUCTION OF A NEW RESIDENTIAL  
48 DWELLING UNLESS AND UNTIL AN ALLOCATION OF SCHOOL SEAT CAPACITY IS  
49 MADE AS REQUIRED BY AND PURSUANT TO ARTICLE IX OF CHAPTER 173 OF THIS  
50 CODE.

51  
52 **SECTION 2: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE**  
53 **TOWN OF LA PLATA** that Sections 173-24.B(2) and E. of the Code of the Town of La Plata  
54 (1998 Edition and Supplements), are hereby repealed and reenacted, with amendments to read as  
55 follows:

56  
57 **Chapter 173 – SUBDIVISION AND LAND DEVELOPMENT**  
58 **Article IV. Plan Requirements and Procedures**

59  
60 **173-24 Final plat.**

61  
62 B. Procedure.

63  
64 (2) At the first regular meeting following receipt of the final plat with appropriate  
65 approvals, the Planning Commission shall review the final plat. The same evening or within one (1)  
66 month, the Planning Commission shall determine its approval or disapproval and shall notify the

67 applicant, in writing, of the decision and the reasons for the decision. No final plat shall be approved  
68 by the Planning Commission until compliance with the requirements set forth in this Article AND IN  
69 ARTICLE IX OF THIS CHAPTER has been determined.

70  
71 E. Information. In general, sufficient data should be shown to determine readily and to  
72 reproduce on the ground the location, bearing and length of every lot line, boundary line, block line  
73 and building line, whether curved or straight. The final plat shall show or be accompanied by the  
74 following information:

75 \* \* \*  
76

77  
78 (17) THOSE LOTS FOR WHICH SCHOOL SEATS HAVE BEEN ALLOCATED  
79 PURSUANT TO ARTICLE IX OF THIS CHAPTER AND ANY NOTES OR GRAPHIC  
80 REPRESENTATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF ARTICLE IX.

81  
82 **SECTION 3: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE**  
83 **TOWN OF LA PLATA** that new Sections 173-92 through 173-101, inclusive, be added to the Code  
84 of the Town of La Plata (1998 Edition and Supplements), to be under the new Article IX, School  
85 Seat Allocation Policy, to follow immediately after Section 173-91, and to read as follows:

86  
87 **Chapter 173 – SUBDIVISION AND LAND DEVELOPMENT**  
88 **ARTICLE IX. SCHOOL SEAT ALLOCATION POLICY**

89  
90 **173-92 STATEMENT OF POLICY AND INTENT.**

91  
92 RESIDENTIAL GROWTH RATES IN SOUTHERN MARYLAND, CHARLES COUNTY  
93 AND THE TOWN OF LA PLATA ARE AMONG THE HIGHEST IN MARYLAND. THE TOWN  
94 IS A DESIGNATED GROWTH AREA WITHIN THE COUNTY, AND REPRESENTS  
95 APPROXIMATELY 10% OF THE POPULATION IN THE GROWTH AREA OF CHARLES  
96 COUNTY. IN THE 1990’S LA PLATA ISSUED BETWEEN 45 AND 60 BUILDING  
97 RESIDENTIAL PERMITS EACH YEAR. IN 2003 THE TOWN ISSUED 203 BUILDING  
98 PERMITS FOR RESIDENTIAL DEVELOPMENT. ESTIMATES PREDICT THAT THE  
99 CURRENT RATE OF RESIDENTIAL GROWTH IN THE TOWN WILL CONTINUE.

100  
101 THE RATE OF GROWTH IN CHARLES COUNTY AND THE TOWN OF LA PLATA IS  
102 OUTPACING THE ABILITY OF THE CHARLES COUNTY BOARD OF EDUCATION AND  
103 THE CHARLES COUNTY COMMISSIONERS TO DEVELOP AND FUND THE  
104 CONSTRUCTION OF NEW SCHOOLS IN CHARLES COUNTY TO ACCOMMODATE THE  
105 GROWING STUDENT POPULATION IN LA PLATA AND THE COUNTY AT LARGE. THIS  
106 HAS RESULTED IN SCHOOL OVERCROWDING THAT IS CONTRARY TO THE  
107 INTERESTS OF STUDENTS ATTENDING THOSE SCHOOLS AND THE PUBLIC AT LARGE.

108 WHILE ONE NEW HIGH SCHOOL IS UNDER CONSTRUCTION AND OTHER SCHOOLS  
109 ARE PLANNED FOR CONSTRUCTION IN CHARLES COUNTY, THE RATE OF GROWTH IS  
110 OUTPACING THE BOARD OF EDUCATION'S ABILITY TO PROVIDE SUFFICIENT  
111 SCHOOL SEATS TO MEET INCREASING DEMANDS.

112  
113 THE TOWN OF LA PLATA HAS NO ROLE IN THE PLANNING, APPROVAL OR  
114 FUNDING OF NEW PUBLIC SCHOOLS. THE CONSTRUCTION OF NEW PUBLIC  
115 ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH SCHOOLS IN CHARLES  
116 COUNTY IS THE RESPONSIBILITY OF THE CHARLES COUNTY BOARD OF EDUCATION  
117 WITH FUNDING PROVIDED PRIMARILY BY THE CHARLES COUNTY COMMISSIONERS  
118 AND THE STATE OF MARYLAND. THE CHARLES COUNTY COMMISSIONERS IMPOSE  
119 AN EXCISE TAX TO GENERATE REVENUES FOR NEW SCHOOL CONSTRUCTION. THIS  
120 EXCISE TAX IS IMPOSED AND COLLECTED BY THE COUNTY COMMISSIONERS ON  
121 NEW DEVELOPMENT THAT TAKES PLACE WITHIN THE TOWN OF LA PLATA AND IN  
122 THE REMAINDER OF THE COUNTY.

123  
124 SINCE THE TOWN OF LA PLATA CANNOT CONTROL THE SUPPLY OF SEATS OR  
125 SCHOOL CAPACITY AVAILABLE TO ACCOMMODATE THE GROWING STUDENT  
126 POPULATION, THE TOWN COUNCIL HAS DETERMINED THAT IT IS IN THE INTEREST  
127 OF THE PUBLIC HEALTH, SAFETY AND WELFARE, AND A PROPER EXERCISE OF THE  
128 TOWN'S POLICE POWERS, TO RESPONSIBLY REGULATE THE RATE OF  
129 DEVELOPMENT IN THE TOWN SO AS TO:

- 130  
131 (1) NOT EXACERBATE SCHOOL OVERCROWDING;  
132  
133 (2) PROVIDE THE CHARLES COUNTY BOARD OF EDUCATION AND THE  
134 CHARLES COUNTY COMMISSIONERS WITH A REASONABLE TIME TO MAKE  
135 ADEQUATE SCHOOL CAPACITY AVAILABLE TO MEET THE DEMANDS CREATED BY  
136 NEW GROWTH IN THE TOWN OF LA PLATA; AND  
137  
138 (3) PROVIDE FOR A REASONABLE RATE OF GROWTH WITHIN THE TOWN TO  
139 MEET THE TOWN'S FISCAL AND ECONOMIC NEEDS.

140  
141 IT IS THE INTENT OF THIS ARTICLE IX TO ESTABLISH A METHODOLOGY AND  
142 A PROCESS FOR DETERMINING AND ALLOCATING AVAILABLE SCHOOL SEATS IN  
143 THE CHARLES COUNTY PUBLIC SCHOOLS AND TO ACCOMPLISH THIS OBJECTIVE  
144 BASED UPON HISTORICAL STUDENT GENERATION FROM RESIDENTIAL  
145 DEVELOPMENT EXCLUSIVELY WITHIN THE TOWN OF LA PLATA.

146  
147 **173-93 DEFINITIONS.**  
148

149           A.     FOR PURPOSES OF THIS ARTICLE IX, THE FOLLOWING TERMS SHALL  
150 HAVE THE MEANINGS SET FORTH IN THIS SECTION 173-93.

151  
152           B.     “ALLOCATION POOL OR SUB-POOL” MEANS A POOL OR SUB-POOL  
153 ESTABLISHED BY THE TOWN COUNCIL PURSUANT TO SECTION 173-95.B. FOR THE  
154 ALLOCATION OF AVAILABLE SCHOOL SEAT CAPACITY.

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156           C.     “AVAILABLE SCHOOL SEAT CAPACITY” MEANS THE AMOUNT OF  
157 SCHOOL SEAT CAPACITY THAT THE TOWN COUNCIL DETERMINES IS AVAILABLE  
158 FOR NEW DEVELOPMENT PURSUANT TO SECTION 173-95.

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160           D.     “DWELLING” MEANS A STRUCTURE THAT CONTAINS ONE OR MORE  
161 DWELLING UNITS.

162  
163           E.     “PARTICULARIZED STUDENT GENERATION RATE” MEANS A STUDENT  
164 GENERATION RATE DETERMINED FOR A PROPOSED SUBDIVISION OR AN EXISTING  
165 LOT OR PARCEL OF LAND IN ACCORDANCE WITH SECTION 173-94.

166  
167           F.     “PRIORITY LIST” MEANS A LIST OF PERSONS AWAITING A SCHOOL SEAT  
168 ALLOCATION RANKED CHRONOLOGICALLY IN THE ORDER THAT EACH PERSON  
169 BECAME ELIGIBLE FOR THE LIST.

170  
171           G.     “SCHOOL SEAT ALLOCATION” MEANS AN ALLOCATION OF AVAILABLE  
172 SCHOOL SEAT CAPACITY FROM AN ALLOCATION POOL OR SUB-POOL PURSUANT TO  
173 SECTION 173-98.

174  
175           H.     “STUDENT GENERATION RATE” MEANS THE AVERAGE NUMBER OF  
176 PUBLIC ELEMENTARY SCHOOL, MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS  
177 GENERATED BY A DWELLING UNIT IN EACH DEVELOPMENT AND NEIGHBORHOOD  
178 OF THE TOWN OF LA PLATA AS DETERMINED IN ACCORDANCE WITH SECTION 173-  
179 94.

180  
181 **173-94           ESTABLISHMENT OF STUDENT GENERATION RATES.**

182  
183           A.     THE TOWN CHIEF EXECUTIVE OFFICER SHALL ESTABLISH STUDENT  
184 GENERATION RATES FROM RESIDENTIAL DEVELOPMENT IN THE TOWN. AFTER  
185 ESTABLISHING INITIAL STUDENT GENERATION RATES THE CHIEF EXECUTIVE  
186 OFFICER SHALL REVIEW AND MODIFY THE STUDENT GENERATION RATES NOT LESS  
187 FREQUENTLY THAN EVERY TWO YEARS.

188

189           B.     THE CHIEF EXECUTIVE OFFICER SHALL ESTABLISH STUDENT  
190 GENERATION RATES FOR ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH  
191 SCHOOLS. IN DETERMINING AND ESTABLISHING STUDENT GENERATION RATES,  
192 THE CHIEF EXECUTIVE OFFICER SHALL CONDUCT A SURVEY TO DETERMINE THE  
193 NUMBER OF STUDENTS FROM EACH DEVELOPMENT AND NEIGHBORHOOD IN THE  
194 TOWN WHO ATTEND PUBLIC ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH  
195 SCHOOLS IN THE COUNTY AND THE TOTAL NUMBER OF DWELLING UNITS IN EACH  
196 DEVELOPMENT AND NEIGHBORHOOD. IN CONDUCTING THIS SURVEY THE CHIEF  
197 EXECUTIVE OFFICE MAY RELY UPON DATA MAINTAINED BY THE CHARLES COUNTY  
198 BOARD OF EDUCATION AND THE TOWN AND SUCH OTHER DATA AND INFORMATION  
199 AS THE CHIEF EXECUTIVE OFFICER REASONABLY DEEMS RELEVANT.

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201           C.     WHEN AN APPLICANT FOR APPROVAL OF A FINAL SUBDIVISION PLAT  
202 OR A BUILDING PERMIT REQUESTS AN ALLOCATION OF SCHOOL SEAT CAPACITY,  
203 THE CHIEF EXECUTIVE OFFICER SHALL DETERMINE A PARTICULARIZED STUDENT  
204 GENERATION RATE FOR EACH LOT IN THE PROPOSED SUBDIVISION OR FOR THE  
205 EXISTING LOT OR PARCEL OF LAND. IN DETERMINING A PARTICULARIZED  
206 STUDENT GENERATION RATE FOR AN EXISTING LOT OR PARCEL OR FOR A LOT IN A  
207 PROPOSED SUBDIVISION THE CHIEF EXECUTIVE OFFICER SHALL CONSIDER THE  
208 STUDENT GENERATION RATES OF SIMILAR RESIDENTIAL DEVELOPMENTS OR  
209 NEIGHBORHOODS IN THE TOWN, THE KNOWN TARGET DEMOGRAPHICS THAT THE  
210 LOT, PARCEL OR PROPOSED LOTS WILL BE MARKETED TO, AND OTHER FACTS AND  
211 DATA THAT THE CHIEF EXECUTIVE OFFICER DEEMS RELEVANT.

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213     **173-95           ESTABLISHMENT OF SCHOOL SEAT ALLOCATION AND ALLOCATION**  
214     **POOLS.**

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216           A.     THE TOWN COUNCIL ANNUALLY SHALL DETERMINE THE NUMBER OF  
217 SCHOOL SEATS THAT THE TOWN WILL MAKE AVAILABLE FOR ALLOCATION FOR  
218 NEW RESIDENTIAL DEVELOPMENT IN THE TOWN DURING THE TOWN'S ENSUING  
219 FISCAL YEAR, EXCEPT THAT IN NO EVENT SHALL THE NUMBER OF SCHOOL SEATS  
220 AVAILABLE FOR ALLOCATION IN EACH FISCAL YEAR BE LESS THAN 100. IN MAKING  
221 THIS ANNUAL DETERMINATION, THE COUNCIL SHALL CONSIDER THE NUMBER OF  
222 AVAILABLE SCHOOL SEATS IN THE ENTIRE CHARLES COUNTY PUBLIC SCHOOL  
223 SYSTEM AND THE RATIO OF THE TOWN'S POPULATION TO THE POPULATION OF THE  
224 COUNTY AS A WHOLE. IN ADDITION TO OTHER FACTORS THAT THE TOWN COUNCIL  
225 DEEMS RELEVANT, THE COUNCIL SHALL CONSIDER DATA AND  
226 RECOMMENDATIONS, IF ANY, FROM THE CHARLES COUNTY BOARD OF EDUCATION  
227 AS TO THE NUMBER OF AVAILABLE SCHOOL SEATS IN THE PUBLIC SCHOOL SYSTEM  
228 AND THE NUMBER OF SEATS THAT THE TOWN SHOULD ALLOCATE FOR NEW  
229 RESIDENTIAL DEVELOPMENT.

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B. AFTER THE TOWN COUNCIL HAS DETERMINED THE NUMBER OF SCHOOL SEATS AVAILABLE FOR ALLOCATION IN THE ENSUING FISCAL YEAR, THE COUNCIL, BY RESOLUTION, SHALL DIVIDE THE TOTAL NUMBER OF SEATS AVAILABLE FOR ALLOCATION INTO SUCH REASONABLE POOLS AND SUB-POOLS AS THE COUNCIL MAY CREATE. THESE POOLS SHALL ATTEMPT TO PROVIDE A REASONABLE APPORTIONMENT OF AVAILABLE SCHOOL SEATS AMONG COMPETING DEVELOPMENT INTERESTS. SUB-POOLS MAY CONSIST OF SPECIFIC SUBDIVISIONS OR PROPOSED SUBDIVISIONS. THE POOLS SHALL INCLUDE, BUT NECESSARILY BE LIMITED TO, THE FOLLOWING:

(1) PROPOSED SUBDIVISIONS CONSISTING OF AT LEAST 50 LOTS THAT HAVE RECEIVED PRELIMINARY PLAT APPROVAL AND FOR WHICH APPLICATION HAS BEEN MADE FOR FINAL PLAT APPROVAL.

(2) PROPOSED SUBDIVISIONS CONSISTING OF LESS THAN 50 LOTS THAT HAVE RECEIVED PRELIMINARY PLAT APPROVAL AND FOR WHICH APPLICATION HAS BEEN MADE FOR FINAL PLAT APPROVAL.

(3) LOTS IN RECORDED SUBDIVISIONS THAT HAVE 50 OR MORE REMAINING VACANT LOTS FOR RESIDENTIAL DEVELOPMENT. THIS POOL SHALL CONTAIN NOT LESS THAT 20% OF THE SCHOOL SEAT CAPACITY AVAILABLE FOR ALLOCATION.

(4) OTHER EXISTING RECORDED LOTS AND PARCELS OF LAND THAT COULD BE DEVELOPED FOR RESIDENTIAL USES. THIS POOL SHALL CONTAIN NOT LESS THAN 20% OF THE SCHOOL SEAT CAPACITY AVAILABLE FOR ALLOCATION.

C. IN THE FOURTH QUARTER OF EACH FISCAL YEAR THE TOWN COUNCIL MAY REEVALUATE THE NUMBER OF SCHOOL SEATS REMAINING UNALLOCATED IN EACH POOL AND SUB-POOL. IF THE COUNCIL DETERMINES THAT ALL OF THE SCHOOL SEATS IN ANY POOL OR SUB-POOL ARE NOT LIKELY TO BE ALLOCATED BEFORE JUNE 30 OF THAT YEAR, THE COUNCIL, BY RESOLUTION, MAY REALLOCATE SUCH SCHOOL SEATS INTO ONE OR MORE OTHER POOLS OR SUB-POOLS WHERE A DEMAND FOR SCHOOL SEAT ALLOCATION EXISTS.

D. IF ANY SCHOOL SEATS IN ANY POOL OR SUB-POOL REMAIN UNALLOCATED ON JUNE 30 OF ANY YEAR, THE TOWN COUNCIL, BY RESOLUTION, SHALL DIVIDE THE UNALLOCATED SEATS INTO THE POOLS AND SUB-POOLS FOR THE ENSUING FISCAL YEAR IN SUCH MANNER AS THE COUNCIL REASONABLY SHALL DETERMINE.

271  
 272 E. NOT LATER THAN JANUARY OF EACH YEAR THE CHIEF EXECUTIVE  
 273 OFFICER SHALL CONSULT WITH THE BOARD OF EDUCATION TO DETERMINE  
 274 WHETHER ANY CHANGES IN SCHOOL ENROLLMENT DURING THE SCHOOL YEAR  
 275 HAVE RESULTED IN ADDITIONAL AVAILABLE SCHOOL CAPACITY FOR THAT YEAR.  
 276 IF THE CHIEF EXECUTIVE OFFICER DETERMINES THAT ADDITIONAL CAPACITY  
 277 DOES EXIST, THE CHIEF EXECUTIVE OFFICER SHALL SO ADVISE THE TOWN  
 278 COUNCIL. THE TOWN COUNCIL, BY RESOLUTION MAY MAKE SUCH ADDITIONS OF  
 279 SCHOOL SEAT CAPACITY TO THE RESPECTIVE ALLOCATION POOLS OR SUB-POOLS  
 280 FOR THAT FISCAL YEAR AS THE COUNCIL DETERMINES APPROPRIATE.

281  
 282 **173-96 ALLOCATION REQUIRED.**

283  
 284 EXCEPT AS PROVIDED IN SECTIONS 173-97 AND 173-98, UNTIL THE TOWN HAS  
 285 MADE AN ALLOCATION OF SCHOOL SEAT CAPACITY TO A PROPOSED SUBDIVISION,  
 286 LOT OR PARCEL OF LAND:

287  
 288 (1) THE PLANNING COMMISSION MAY NOT APPROVE A FINAL PLAT OF  
 289 SUBDIVISION FOR A SUBDIVISION OF LAND FOR THE PURPOSE OF RESIDENTIAL  
 290 DEVELOPMENT; AND

291  
 292 (2) THE TOWN MAY NOT APPROVE OR ISSUE A BUILDING PERMIT FOR THE  
 293 DEVELOPMENT AND CONSTRUCTION OF ANY RESIDENTIAL DWELLING OR  
 294 DWELLING UNIT ON AN EXISTING LOT OR PARCEL.

295  
 296 **173-97 EXEMPTIONS.**

297  
 298 THE REQUIREMENTS OF SECTION 171-96 DO NOT APPLY TO:

299  
 300 (1) THE APPROVAL OF A FINAL PLAT FOR THE SUBDIVISION OF LAND FOR  
 301 A DEVELOPMENT IN WHICH DWELLING UNITS WILL BE RESTRICTED TO  
 302 OCCUPANCY BY PERSONS 55 YEARS OF AGE AND OLDER.

303  
 304 (2) THE DEVELOPMENT AND CONSTRUCTION OF DWELLING UNITS IN A  
 305 SUBDIVISION WHERE OCCUPANCY OF DWELLING UNITS IS RESTRICTED TO  
 306 PERSONS 55 YEARS OF AGE OR OLDER.

307  
 308 (3) NURSING HOMES.

309  
 310 (4) ASSISTED LIVING FACILITIES.

311

312 (5) ANY OTHER TYPE OF RESIDENTIAL CONSTRUCTION THAT WILL NOT  
313 GENERATE ADDITIONAL SCHOOL AGE POPULATION.

314  
315 (6) THE APPROVAL OF A FINAL PLAT OF SUBDIVISION OF LAND FOR A  
316 DEVELOPMENT WHERE THE DEVELOPER HAS ENTERED INTO AN AGREEMENT WITH  
317 THE TOWN, THE BOARD OF EDUCATION OF CHARLES COUNTY, AND THE COUNTY  
318 COMMISSIONERS OF CHARLES COUNTY BY WHICH:

319  
320 (A) THE DEVELOPER AGREES, IN ADDITION TO THE PAYMENT OF  
321 ANY APPLICABLE SCHOOL EXCISE TAXES AND SCHOOL IMPACT FEES, TO MAKE A  
322 FINANCIAL CONTRIBUTION TO THE COUNTY IN AN AMOUNT SUFFICIENT TO  
323 PRODUCE AN ADEQUATE NUMBER OF NEW PERMANENT SCHOOL SEATS TO  
324 ACCOMMODATE THE PROJECTED STUDENT POPULATION FROM THE SUBDIVISION  
325 BASED UPON THE PARTICULARIZED STUDENT GENERATION RATES ESTABLISHED  
326 PURSUANT TO SECTION 191-94.C.;

327  
328 (B) THE BOARD OF EDUCATION AGREES, SUBJECT TO  
329 APPROPRIATION OF FUNDS BY THE CHARLES COUNTY COMMISSIONERS, TO  
330 PRODUCE AN ADEQUATE NUMBER OF NEW PERMANENT SCHOOL SEATS TO  
331 ACCOMMODATE THE PROJECTED STUDENT POPULATION FROM THE SUBDIVISION  
332 BASED UPON THE PARTICULARIZED STUDENT GENERATION RATES ESTABLISHED  
333 PURSUANT TO SECTION 191-94.C., SUCH NEW SCHOOL SEATS REASONABLY  
334 EXPECTED TO BE AVAILABLE WITHIN THREE YEARS AFTER APPROVAL OF THE  
335 FINAL SUBDIVISION PLAT;

336  
337 (C) THE CHARLES COUNTY COMMISSIONERS AGREE TO  
338 APPROPRIATE SUFFICIENT FUNDS TO THE BOARD OF EDUCATION WHICH,  
339 TOGETHER WITH OTHER AVAILABLE FUNDS, WILL ALLOW THE BOARD OF  
340 EDUCATION TO PRODUCE AN ADEQUATE NUMBER OF NEW PERMANENT SCHOOL  
341 SEATS TO ACCOMMODATE THE PROJECTED STUDENT POPULATION FROM THE  
342 SUBDIVISION BASED UPON THE PARTICULARIZED STUDENT GENERATION RATES  
343 ESTABLISHED PURSUANT TO SECTION 191-94.C., SUCH NEW SCHOOL SEATS  
344 REASONABLY EXPECTED TO BE AVAILABLE WITHIN THREE YEARS AFTER  
345 APPROVAL OF THE FINAL SUBDIVISION PLAT; AND

346  
347 (D) THE TOWN COUNCIL DETERMINES THAT THE AGREEMENTS AND  
348 ACTIONS OF THE DEVELOPER, THE BOARD OF EDUCATION AND THE CHARLES  
349 COUNTY COMMISSIONERS ARE REASONABLY LIKELY TO RESULT IN THE BOARD OF  
350 EDUCATION PRODUCING AN ADEQUATE NUMBER OF NEW PERMANENT SCHOOL  
351 SEATS TO ACCOMMODATE THE PROJECTED STUDENT POPULATION FROM THE  
352 SUBDIVISION BASED UPON THE PARTICULARIZED STUDENT GENERATION RATES

353 ESTABLISHED PURSUANT TO SECTION 191-94.C., SUCH NEW SCHOOL SEATS  
354 REASONABLY EXPECTED TO BE AVAILABLE WITHIN THREE YEARS AFTER  
355 APPROVAL OF THE FINAL SUBDIVISION PLAT.  
356

357 **173-98 PROCESS FOR ALLOCATION.**  
358

359 A. THIS SECTION REGULATES THE ALLOCATION OF AVAILABLE SCHOOL  
360 SEAT CAPACITY TO PROPOSED LOTS IN SUBDIVISIONS THAT ARE SEEKING FINAL  
361 PLAT APPROVAL AND TO EXISTING INDIVIDUAL LOTS OR PARCELS OF LAND.  
362

363 B. (1) WHEN A REQUEST IS MADE FOR FINAL SUBDIVISION PLAT  
364 APPROVAL THE CHIEF EXECUTIVE OFFICER SHALL DETERMINE A PARTICULARIZED  
365 STUDENT GENERATION RATE FOR EACH LOT SHOWN ON THE PROPOSED FINAL  
366 PLAT AND THEN SHALL MULTIPLY THAT RATE BY THE TOTAL NUMBER OF LOTS ON  
367 THE FINAL PLAT TO DETERMINE THE TOTAL NUMBER OF SCHOOL SEATS REQUIRED  
368 FOR ALL LOTS SHOWN ON THE PLAT.  
369

370 (2) IF SUFFICIENT UNALLOCATED SCHOOL SEATS IN THE APPLICABLE  
371 ALLOCATION POOL OR SUB-POOL ARE AVAILABLE TO PROVIDE A SCHOOL SEAT  
372 ALLOCATION FOR ALL OF THE LOTS DEPICTED ON THE FINAL PLAT, SUBJECT TO  
373 THE LIMITATION IN SECTION 173-98.F, A SCHOOL SEAT ALLOCATION SHALL BE  
374 MADE FOR ALL LOTS AND, PROVIDED THAT THE FINAL PLAT SATISFIES ALL OTHER  
375 APPLICABLE REQUIREMENTS, THE PLANNING COMMISSION SHALL APPROVE THE  
376 FINAL SUBDIVISION PLAT.  
377

378 (3) IF SUFFICIENT UNALLOCATED SCHOOL SEATS IN THE APPLICABLE  
379 ALLOCATION POOL OR SUB-POOL ARE NOT AVAILABLE TO PROVIDE A SCHOOL  
380 SEAT ALLOCATION FOR ANY OF THE LOTS DEPICTED ON THE FINAL PLAT, THE  
381 APPLICANT MAY ELECT TO DO ONE OF THE FOLLOWING:  
382

383 (A) REQUEST THAT APPROVAL OF THE FINAL PLAT BE DEFERRED  
384 AND THAT THE ENTIRE FINAL PLAT BE PLACED ON THE APPLICABLE SUBDIVISION  
385 PRIORITY LIST FOR ALLOCATION OF AVAILABLE SCHOOL SEAT CAPACITY AS SUCH  
386 CAPACITY BECOMES AVAILABLE.  
387

388 (B) WITHDRAW THE REQUEST FOR FINAL PLAT APPROVAL.  
389

390 (4) IF SUFFICIENT UNALLOCATED SCHOOL SEATS IN THE APPLICABLE  
391 ALLOCATION POOL OR SUB-POOL ARE AVAILABLE TO PROVIDE A SCHOOL SEAT  
392 ALLOCATION FOR SOME, BUT NOT ALL, OF THE LOTS DEPICTED ON THE FINAL  
393 PLAT, THE APPLICANT MAY ELECT TO DO ONE OF THE FOLLOWING:

394  
395 (A) [1] ACCEPT A SCHOOL SEAT ALLOCATION FOR AS MANY LOTS  
396 AS ALLOCATIONS ARE AVAILABLE FOR THAT PROPOSED SUBDIVISION AND  
397 DESIGNATE EACH REMAINING LOT AS NOT BUILDABLE UNTIL A FUTURE  
398 ALLOCATION OF SCHOOL SEAT CAPACITY IS MADE FOR THAT LOT. A SCHOOL SEAT  
399 ALLOCATION SHALL BE ACCEPTED BY PAYING A SCHOOL SEAT ALLOCATION  
400 RESERVATION FEE FOR EACH LOT FOR WHICH AN ALLOCATION IS TO BE MADE.  
401 THE AMOUNT OF THE ALLOCATION RESERVATION FEE IS 20% OF THE THEN  
402 APPLICABLE SCHOOL EXCISE TAX FOR EACH LOT. THE ALLOCATION RESERVATION  
403 FEE SHALL BE PAID TO THE TOWN PRIOR TO APPROVAL OF THE FINAL SUBDIVISION  
404 PLAT. THE ALLOCATION RESERVATION FEE FOR EACH LOT SHALL BE APPLIED  
405 AGAINST THE SCHOOL EXCISE TAX PAYABLE FOR THAT LOT IF A BUILDING PERMIT  
406 FOR THAT LOT IS APPLIED FOR AND ISSUED BY THE TOWN WITHIN ONE YEAR,  
407 AFTER FINAL PLAT APPROVAL. HOWEVER, IF A BUILDING PERMIT IS NOT APPLIED  
408 FOR AND ISSUED BY THE TOWN WITHIN ONE YEAR AFTER FINAL PLAT APPROVAL,  
409 THE SCHOOL SEAT ALLOCATION AND ALLOCATION RESERVATION FEE FOR THAT  
410 LOT ARE FORFEITED AND, FOR PURPOSES OF FUTURE SCHOOL SEAT ALLOCATION  
411 THE LOT SHALL BE TREATED AS AN EXISTING LOT. UPON PAYMENT OF THE  
412 ALLOCATION RESERVATION FEE THE PLANNING COMMISSION MAY APPROVE THE  
413 FINAL SUBDIVISION PLAT.

414  
415 [2] ANY FUTURE ALLOCATION OF SCHOOL SEAT CAPACITY  
416 FOR EACH LOT FOR WHICH A SCHOOL SEAT ALLOCATION WAS NOT MADE WHEN  
417 THE FINAL PLAT WAS APPROVED, OR FOR WHICH AN ALLOCATION WAS MADE BUT  
418 FORFEITED BECAUSE A BUILDING PERMIT WAS NOT APPLIED FOR WITHIN ONE  
419 YEAR AND ISSUED WITHIN 18 MONTHS FROM THE DATE OF FINAL PLAT APPROVAL,  
420 SHALL BE MADE FROM THE POOL OF SCHOOL SEATS AVAILABLE FOR ALLOCATION  
421 TO EXISTING RECORDED LOTS AT THE TIME THAT A BUILDING PERMIT  
422 APPLICATION IS APPROVED FOR THAT LOT. THE FUTURE ALLOCATION OF SCHOOL  
423 SEAT CAPACITY FOR A LOT SHALL BE BASED UPON A PARTICULARIZED SCHOOL  
424 SEAT GENERATION RATE FOR THAT LOT DETERMINED BY THE CHIEF EXECUTIVE  
425 OFFICER PRIOR TO APPROVAL OF THE APPLICATION FOR A BUILDING PERMIT FOR  
426 THAT LOT.

427  
428 (B) REQUEST THAT APPROVAL OF THE FINAL PLAT BE DEFERRED  
429 AND THAT THE ENTIRE FINAL PLAT BE PLACED ON THE APPLICABLE SUBDIVISION  
430 PRIORITY LIST FOR ALLOCATION OF AVAILABLE SCHOOL SEAT CAPACITY AS SUCH  
431 CAPACITY BECOMES AVAILABLE. IF THE APPLICANT ELECTS TO HAVE THE FINAL  
432 PLAT PLACED ON THE PRIORITY LIST, ALL AVAILABLE SCHOOL SEAT CAPACITY  
433 ALLOCABLE TO THAT SUBDIVISION BE RESERVED FOR THAT PROPOSED  
434 SUBDIVISION, WITHOUT COST TO THE APPLICANT, UNTIL SCHOOL SEAT CAPACITY

435 IS AVAILABLE IN THE POOL OR SUB-POOL FOR ALLOCATION TO ALL REMAINING  
436 LOTS DEPICTED ON THE FINAL PLAT.

437  
438 (C) RECONFIGURE AND RESUBMIT THE FINAL PLAT TO DEPICT ONLY  
439 THOSE LOTS FOR WHICH AN ALLOCATION OF SCHOOL SEAT CAPACITY THEN CAN  
440 BE MADE.

441  
442 (D) WITHDRAW THE REQUEST FOR FINAL PLAT APPROVAL.

443  
444 (5) EACH APPROVED FINAL SUBDIVISION PLAT SHALL CONTAIN NOTES OR  
445 GRAPHIC REPRESENTATIONS THAT CLEARLY DELINEATE WHICH LOTS HAVE  
446 RECEIVED AN ALLOCATION OF SCHOOL SEAT CAPACITY AND THE TERMS AND  
447 CONDITIONS OF SUCH ALLOCATION, AND WHICH LOTS ARE NOT BUILDABLE UNTIL  
448 A FUTURE ALLOCATION OF AVAILABLE SCHOOL SEAT CAPACITY IS MADE AT SUCH  
449 TIME AS AN APPLICATION FOR A BUILDING PERMIT IS APPROVED.

450  
451 C. WHEN AN APPLICATION IS MADE FOR APPROVAL OF A BUILDING  
452 PERMIT FOR DEVELOPMENT AND CONSTRUCTION OF A DWELLING OR DWELLING  
453 UNIT ON AN EXISTING LOT OR PARCEL OF LAND, THE CHIEF EXECUTIVE OFFICER  
454 SHALL DETERMINE A PARTICULARIZED STUDENT GENERATION RATE FOR THAT  
455 LOT OR PARCEL. THE CHIEF EXECUTIVE OFFICER SHALL ALLOCATE AVAILABLE  
456 SCHOOL SEAT CAPACITY TO THAT LOT OR PARCEL BASED UPON THE  
457 PARTICULARIZED STUDENT GENERATION RATE FOR THAT LOT OR PARCEL, IF  
458 SCHOOL SEAT CAPACITY IS AVAILABLE IN THE EXISTING LOT ALLOCATION POOL.  
459 IF AVAILABLE SCHOOL SEAT CAPACITY IS NOT THEN AVAILABLE, THE LOT WILL BE  
460 PLACED ON A PRIORITY LIST FOR FUTURE ALLOCATION OF SCHOOL SEAT  
461 CAPACITY.

462  
463 D. WHEN AN APPLICATION FOR FINAL SUBDIVISION PLAT APPROVAL OR  
464 FOR THE ISSUANCE OF A BUILDING PERMIT INVOLVES ONE OR MORE DWELLINGS  
465 THAT CONTAIN MORE THAN ONE DWELLING UNIT PER DWELLING, SUCH AS SINGLE-  
466 FAMILY ATTACHED DWELLINGS, TOWNHOUSES, MULTIPLE-FAMILY DWELLINGS  
467 AND TWO-FAMILY DWELLINGS, A SCHOOL SEAT ALLOCATION MAY NOT BE MADE  
468 FOR ANY DWELLING UNIT IN A DWELLING UNLESS SUFFICIENT SCHOOL SEAT  
469 CAPACITY IS AVAILABLE FOR ALLOCATION TO ALL DWELLING UNITS IN THAT  
470 DWELLING.

471  
472 E. EACH ALLOCATION OF AVAILABLE SCHOOL SEAT CAPACITY IS MADE  
473 TO A PARTICULAR LOT, PROPOSED LOT, OR PARCEL OF LAND. ONCE AN  
474 ALLOCATION OF SCHOOL SEAT CAPACITY HAS BEEN MADE TO A PARTICULAR LOT,

475 PROPOSED LOT OR PARCEL OF LAND, THE ALLOCATION IS NOT TRANSFERABLE OR  
476 ASSIGNABLE TO ANOTHER LOT, PROPOSED LOT OR PARCEL OF LAND.

477  
478 F. UNLESS THERE ARE NO PROPOSED SUBDIVISIONS AWAITING FINAL  
479 PLAT APPROVAL OR EXISTING LOTS OR PARCELS OF LAND ON A PRIORITY LIST  
480 ESTABLISHED PURSUANT TO SECTION 173-99, NOT MORE THAN 25 SEATS OF  
481 AVAILABLE SCHOOL CAPACITY MAY BE ALLOCATED IN ANY FISCAL YEAR TO ANY  
482 ONE PROPOSED SUBDIVISION OR TO, OR FOR THE BENEFIT OF, ANY EXISTING LOTS  
483 OR PARCELS OF LAND THAT WERE HELD IN THE SAME OWNERSHIP ON THE FIRST  
484 DAY OF THE FISCAL YEAR.

485

486 **173-99 SCHOOL SEAT ALLOCATION PRIORITY LISTS.**

487

488 A. THE TOWN'S CHIEF EXECUTIVE OFFICER SHALL ESTABLISH AND  
489 MAINTAIN PRIORITY LISTS OF APPLICATIONS FOR FINAL SUBDIVISION PLAT  
490 APPROVAL, AND FOR BUILDING PERMITS FOR THE DEVELOPMENT AND  
491 CONSTRUCTION OF DWELLING UNITS ON EXISTING LOTS OR PARCELS OF LAND,  
492 FOR WHICH SCHOOL SEAT CAPACITY IS NOT AVAILABLE.

493

494 B. A PROPOSED SUBDIVISION FOR WHICH AN APPLICANT HAS REQUESTED  
495 PLACEMENT ON A SUBDIVISION PRIORITY LIST PURSUANT TO SECTION 191-98.B.  
496 AND AN EXISTING LOT OR PARCEL OF LAND FOR WHICH A BUILDING PERMIT  
497 APPLICATION HAS BEEN SUBMITTED TO THE TOWN SHALL BE PLACED ON THE  
498 APPLICABLE PRIORITY LIST AS OF SUCH DATE AND TIME WHEN ALL  
499 REQUIREMENTS FOR FINAL SUBDIVISION PLAT APPROVAL OR ISSUANCE OF A  
500 BUILDING PERMIT HAVE BEEN SATISFIED EXCEPT FOR THE AVAILABILITY OF  
501 SCHOOL SEAT CAPACITY.

502

503 C. WHEN SCHOOL SEAT CAPACITY BECOMES AVAILABLE IN THE  
504 APPLICABLE SUBDIVISION ALLOCATION POOL OR SUB-POOL, THE CHIEF EXECUTIVE  
505 OFFICER SHALL PROVIDE WRITTEN NOTICE TO THE NEXT APPLICANT ON THE  
506 PRIORITY LIST THAT SCHOOL SEAT CAPACITY IS AVAILABLE FOR ALLOCATION TO  
507 SOME OR ALL OF THE LOTS AS DEPICTED ON THE APPLICANT'S PROPOSED FINAL  
508 SUBDIVISION PLAT. THE NOTICE SHALL BE SENT TO THE ADDRESS OF THE  
509 APPLICANT AS SHOWN ON THE FINAL SUBDIVISION PLAT APPLICATION OR TO SUCH  
510 OTHER ADDRESS AS THE APPLICANT HAS DESIGNATED IN WRITING TO THE CHIEF  
511 EXECUTIVE OFFICER. THE NOTICE SHALL GIVE THE APPLICANT A PERIOD OF 30  
512 DAYS TO NOTIFY THE CHIEF EXECUTIVE OFFICER IN WRITING THAT THE  
513 APPLICANT ACCEPTS OR REJECTS THE ALLOCATION. AN ALLOCATION SHALL BE  
514 ACCEPTED IN THE MANNER SPECIFIED IN SECTION 173-98.B(4)(A)[1].

515

516 (1) IF THE APPLICANT ACCEPTS THE ALLOCATION IN WRITING WITHIN  
517 SUCH 30 DAY PERIOD, AND IF SUCH ALLOCATION PROVIDES A SCHOOL SEAT  
518 ALLOCATION FOR ALL LOTS DEPICTED ON THE FINAL PLAT, THE FINAL PLAT SHALL  
519 BE APPROVED.

520  
521 (2) IF THE APPLICANT ACCEPTS THE ALLOCATION IN WRITING WITHIN  
522 SUCH 30 DAY PERIOD, AND IF SUCH ALLOCATION PROVIDES AN ALLOCATION OF  
523 AVAILABLE SCHOOL SEAT CAPACITY FOR SOME, BUT NOT ALL OF THE LOTS  
524 DEPICTED ON THE FINAL PLAT, THE APPLICANT SHALL ELECT TO PROCEED IN  
525 ACCORDANCE WITH SECTION 173-98.B(4) (A) OR (B).

526  
527 (3) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
528 SEAT ALLOCATION, AN APPLICANT AFFIRMATIVELY REJECTS AN ALLOCATION OF  
529 AVAILABLE SCHOOL SEAT CAPACITY, THE APPLICANT MAY REQUEST IN WRITING  
530 THAT THE APPLICATION FOR FINAL PLAT APPROVAL BE KEPT ACTIVE AND THAT  
531 THE LOTS DEPICTED ON THE FINAL PLAT BE MAINTAINED ON THE PRIORITY LIST.  
532 IF THE APPLICANT DOES MAKE SUCH A REQUEST, THE FINAL PLAT SHALL  
533 MAINTAIN ITS PLACE ON THE PRIORITY LIST AND SHALL BE OFFERED THE NEXT  
534 AVAILABLE SCHOOL SEAT ALLOCATION. IF THE APPLICANT DOES NOT  
535 AFFIRMATIVELY ACCEPT THE SCHOOL SEAT ALLOCATION THE NEXT TIME IT IS  
536 OFFERED, THE FINAL PLAT SHALL BE REMOVED FROM THE PRIORITY LIST, THE  
537 APPLICATION FOR FINAL PLAT APPROVAL SHALL BE DEEMED WITHDRAWN, AND  
538 ANY AVAILABLE SCHOOL SEAT CAPACITY PREVIOUSLY ALLOCATED TO LOTS ON  
539 THE FINAL PLAT SHALL BE RETURNED TO THE APPLICABLE ALLOCATION POOL OR  
540 SUB-POOL.

541  
542 (4) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
543 SEAT ALLOCATION, AN APPLICANT AFFIRMATIVELY REJECTS AN ALLOCATION OF  
544 AVAILABLE SCHOOL SEAT CAPACITY AND DOES NOT REQUEST IN WRITING THAT  
545 THE APPLICATION FOR FINAL PLAT APPROVAL BE KEPT ACTIVE AND THAT THE  
546 FINAL PLAT BE MAINTAINED ON THE PRIORITY LIST, THE FINAL PLAT SHALL BE  
547 REMOVED FROM THE PRIORITY LIST, THE APPLICATION FOR FINAL PLAT APPROVAL  
548 SHALL BE DEEMED WITHDRAWN, AND ANY AVAILABLE SCHOOL SEAT CAPACITY  
549 PREVIOUSLY ALLOCATED TO LOTS ON THE FINAL PLAT SHALL BE RETURNED TO  
550 THE APPLICABLE ALLOCATION POOL OR SUB-POOL.

551  
552 (5) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
553 SEAT ALLOCATION, AN APPLICANT NEITHER REJECTS NOR AFFIRMATIVELY  
554 ACCEPTS THE ALLOCATION IN WRITING, THE LOTS ON THE PROPOSED FINAL  
555 SUBDIVISION PLAT SHALL BE REMOVED FROM THE PRIORITY LIST, THE  
556 APPLICATION FOR FINAL PLAT APPROVAL SHALL BE DEEMED TO HAVE BEEN

557 WITHDRAWN BY THE APPLICANT, AND ANY PREVIOUS ALLOCATION OF SCHOOL  
558 SEAT CAPACITY FOR LOTS ON THE FINAL PLAT SHALL BE RETURNED TO THE  
559 APPLICABLE ALLOCATION POOL OR SUB-POOL.

560  
561 D. WHEN SCHOOL SEAT CAPACITY BECOMES AVAILABLE IN THE EXISTING  
562 LOT ALLOCATION POOL OR SUB-POOL, THE CHIEF EXECUTIVE OFFICER SHALL  
563 PROVIDE WRITTEN NOTICE TO THE NEXT APPLICANT ON THE EXISTING LOT  
564 PRIORITY LIST THAT SCHOOL SEAT CAPACITY IS AVAILABLE FOR ALLOCATION TO  
565 THE APPLICANT'S LOT OR PARCEL OF LAND. THE NOTICE SHALL BE SENT TO THE  
566 ADDRESS OF THE APPLICANT AS SHOWN ON THE BUILDING PERMIT APPLICATION  
567 OR TO SUCH OTHER ADDRESS AS THE APPLICANT HAS DESIGNATED IN WRITING TO  
568 THE CHIEF EXECUTIVE OFFICER. THE NOTICE SHALL GIVE THE APPLICANT A  
569 PERIOD OF 30 DAYS TO NOTIFY THE CHIEF EXECUTIVE OFFICER IN WRITING THAT  
570 THE APPLICANT ACCEPTS OR REJECTS THE ALLOCATION.

571  
572 (1) IF THE APPLICANT ACCEPTS THE ALLOCATION WITHIN SUCH 30 DAY  
573 PERIOD THE BUILDING PERMIT SHALL BE ISSUED AS LONG THE APPLICATION  
574 CONTINUES TO COMPLY WITH ALL APPLICABLE LAWS. IF THE BUILDING PERMIT  
575 APPLICATION NO LONGER COMPLIES WITH ALL APPLICABLE LAWS THE  
576 APPLICATION SHALL BE DEEMED REJECTED, BUT THE SCHOOL SEAT ALLOCATION  
577 SHALL BE RESERVED FOR THE LOT OR PARCEL OF LAND FOR A PERIOD OF 90 DAYS,  
578 WITHIN WHICH THE APPLICANT MUST SUBMIT FOR APPROVAL BY THE TOWN A  
579 REVISED PERMIT APPLICATION THAT COMPLIES WITH ALL APPLICABLE LAWS. IF A  
580 CONFORMING BUILDING PERMIT APPLICATION IS SUBMITTED WITHIN 90 DAYS AND  
581 APPROVED BY THE TOWN THE SCHOOL SEAT ALLOCATION FOR THE LOT OR PARCEL  
582 OF LAND SHALL BE MADE AND THE PERMIT ISSUED. IF A CONFORMING BUILDING  
583 PERMIT APPLICATION IS NOT SUBMITTED WITHIN 90 DAYS OR IS NOT APPROVED BY  
584 THE TOWN, THE SCHOOL SEAT CAPACITY SHALL BE PLACED BACK IN THE POOL  
585 AND THE LOT OR PARCEL OF LAND REMOVED FROM THE PRIORITY LIST.

586  
587 (2) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
588 SEAT ALLOCATION, AN APPLICANT NEITHER REJECTS NOR AFFIRMATIVELY  
589 ACCEPTS THE ALLOCATION IN WRITING, THE LOT OR PARCEL OF LAND SHALL BE  
590 REMOVED FROM THE PRIORITY LIST AND THE BUILDING PERMIT APPLICATION FOR  
591 THAT LOT OR PARCEL OF LAND SHALL BE DEEMED TO HAVE BEEN WITHDRAWN BY  
592 THE APPLICANT.

593  
594 (3) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
595 SEAT ALLOCATION, AN APPLICANT AFFIRMATIVELY REJECTS AN ALLOCATION OF  
596 AVAILABLE SCHOOL SEAT CAPACITY, THE APPLICANT MAY REQUEST IN WRITING  
597 THAT THE BUILDING PERMIT APPLICATION BE KEPT ACTIVE AND THAT THE LOT OR

598 PARCEL OF LAND BE MAINTAINED ON THE PRIORITY LIST. IF THE APPLICANT  
599 MAKES SUCH A REQUEST, THE LOT OR PARCEL SHALL MAINTAIN ITS PLACE ON THE  
600 PRIORITY LIST AND SHALL BE OFFERED THE NEXT AVAILABLE SCHOOL SEAT  
601 ALLOCATION. IF THE APPLICANT DOES NOT AFFIRMATIVELY ACCEPT THE SCHOOL  
602 SEAT ALLOCATION THE NEXT TIME IT IS OFFERED, THE SCHOOL SEAT CAPACITY  
603 SHALL BE PLACED BACK IN THE ALLOCATION POOL OR SUB-POOL AND THE LOT OR  
604 PARCEL OF LAND SHALL BE REMOVED FROM THE PRIORITY LIST.

605  
606 (4) IF, WITHIN 30 DAYS AFTER NOTICE OF THE AVAILABILITY OF A SCHOOL  
607 SEAT ALLOCATION, AN APPLICANT AFFIRMATIVELY REJECTS AN ALLOCATION OF  
608 AVAILABLE SCHOOL SEAT CAPACITY AND DOES NOT REQUEST IN WRITING THAT  
609 THE BUILDING PERMIT APPLICATION BE KEPT ACTIVE AND THAT THE LOT OR  
610 PARCEL OF LAND BE MAINTAINED ON THE PRIORITY LIST, THE SCHOOL SEAT  
611 CAPACITY SHALL BE PLACED BACK IN THE ALLOCATION POOL OR SUB-POOL AND  
612 THE LOT OR PARCEL OF LAND SHALL BE REMOVED FROM THE PRIORITY LIST.

613  
614 E. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE IX, ANY  
615 LOT OR PARCEL OF LAND ON THE EXISTING LOT PRIORITY LIST THAT HAS NOT  
616 RECEIVED AN ALLOCATION OF SCHOOL SEAT CAPACITY WITHIN SIX YEARS FROM  
617 THE DATE THAT LOT OR PARCEL WAS PLACED ON THE PRIORITY LIST SHALL BE  
618 ISSUED A BUILDING PERMIT AS LONG AS THE BUILDING PERMIT APPLICATION  
619 CONTINUES TO COMPLY WITH ALL APPLICABLE LAWS. IF THE BUILDING PERMIT  
620 APPLICATION NO LONGER COMPLIES WITH ALL APPLICABLE LAWS THE APPLICANT  
621 MUST SUBMIT FOR APPROVAL BY THE TOWN A REVISED BUILDING PERMIT  
622 APPLICATION THAT COMPLIES WITH ALL APPLICABLE LAWS. IF A CONFORMING  
623 BUILDING PERMIT APPLICATION IS SUBMITTED WITHIN 90 DAYS AND APPROVED BY  
624 THE TOWN THE BUILDING PERMIT MAY BE ISSUED EVEN THOUGH AVAILABLE  
625 SCHOOL SEAT CAPACITY MAY NOT EXIST IN THE APPLICABLE ALLOCATION POOL  
626 OR SUB-POOL. IF A CONFORMING BUILDING PERMIT APPLICATION IS NOT  
627 SUBMITTED WITHIN 90 DAYS OR IS NOT APPROVED BY THE TOWN, A BUILDING  
628 PERMIT MAY NOT BE ISSUED FOR THE LOT OR PARCEL OF LAND UNTIL A NEW  
629 ALLOCATION OF SCHOOL SEAT CAPACITY IS MADE TO THE LOT OR PARCEL. ANY  
630 BUILDING PERMITS ISSUED PURSUANT TO THIS SECTION 173-99.E. SHALL NOT  
631 COUNT AGAINST OR REDUCE THE AVAILABLE SCHOOL SEAT CAPACITY THAT  
632 OTHERWISE IS AVAILABLE FOR ALLOCATION IN THAT FISCAL YEAR.

633  
634 **173-100 DURATION AND EFFECT OF EXPIRATION OF ALLOCATION.**

635  
636 A. THIS SECTION PROVIDES FOR THE EXPIRATION OF AN ALLOCATION OF  
637 SCHOOL SEAT CAPACITY AND THE EFFECT OF SUCH AN EXPIRATION.

638

639           B.     (1)     THIS SUBSECTION B. REGULATES THE EXPIRATION OF A SCHOOL  
640 SEAT ALLOCATION FOR A LOT THAT WAS MADE AS PART OF THE APPROVAL OF A  
641 FINAL SUBDIVISION PLAT.

642  
643           (2)     A SCHOOL SEAT ALLOCATION THAT HAS BEEN MADE AS PART OF THE  
644 APPROVAL OF A FINAL SUBDIVISION PLAT IS VALID FOR A PERIOD OF ONE YEAR  
645 FROM THE DATE OF APPROVAL OF THE FINAL PLAT. THE ALLOCATION FOR A LOT  
646 IN THE SUBDIVISION EXPIRES IF A BUILDING PERMIT TO CONSTRUCT A DWELLING  
647 UNIT ON THAT LOT HAS NOT BEEN ISSUED WITHIN 1 YEAR FROM THE DATE OF  
648 APPROVAL OF THE FINAL PLAT, OR IF THE BUILDING PERMIT TO CONSTRUCT A  
649 DWELLING UNIT ON THAT LOT EXPIRES OR IS REVOKED BEFORE A CERTIFICATE OF  
650 OCCUPANCY IS ISSUED.

651  
652           (3)     AS LONG AS A SCHOOL SEAT ALLOCATION HAS NOT EXPIRED, A  
653 BUILDING PERMIT MAY BE ISSUED FOR THE LOT FOR WHICH THE ALLOCATION HAS  
654 BEEN MADE. A BUILDING PERMIT MAY NOT BE ISSUED FOR ANY LOT FOR WHICH  
655 AN ALLOCATION HAS EXPIRED UNTIL THE LOT HAS RECEIVED A NEW SCHOOL SEAT  
656 ALLOCATION. AFTER EXPIRATION OF AN ALLOCATION A LOT SHALL BE TREATED  
657 AS AN EXISTING RECORDED LOT AND PLACED AT THE END OF THE EXISTING LOT  
658 PRIORITY LIST.

659  
660           C.     (1)     THIS SUBSECTION C. REGULATES THE EXPIRATION OF AN  
661 ALLOCATION OF SCHOOL SEAT CAPACITY FOR A LOT THAT WAS MADE AS PART OF  
662 THE ISSUANCE OF A BUILDING PERMIT.

663  
664           (2)     AN ALLOCATION OF SCHOOL SEAT CAPACITY FOR A LOT THAT HAS  
665 BEEN MADE AS PART OF THE ISSUANCE OF A BUILDING PERMIT IS VALID FOR THE  
666 DURATION OF THE BUILDING PERMIT. THE SCHOOL SEAT ALLOCATION EXPIRES IF  
667 THE BUILDING PERMIT TO CONSTRUCT A DWELLING UNIT ON THAT LOT EXPIRES  
668 OR IS REVOKED BEFORE A CERTIFICATE OF OCCUPANCY IS ISSUED.

669  
670           (3)     IF A SCHOOL SEAT ALLOCATION EXPIRES, THE EXISTING BUILDING  
671 PERMIT SHALL NOT BE REINSTATED OR RENEWED, OR A NEW BUILDING PERMIT  
672 ISSUED, FOR THAT LOT UNTIL THE LOT HAS RECEIVED A NEW SCHOOL SEAT  
673 ALLOCATION. AFTER A SCHOOL SEAT ALLOCATION EXPIRES A LOT SHALL BE  
674 PLACED AT THE END OF A EXISTING LOT PRIORITY LIST FOR A NEW SCHOOL SEAT  
675 ALLOCATION.

676  
677 **173-101        APPEALS.**

678  
679           A.     ANY PERSON AGGRIEVED BY A DECISION OF THE TOWN'S CHIEF

680 EXECUTIVE OFFICER IN DETERMINING A PARTICULARIZED STUDENT GENERATION  
681 RATE OR IN APPROVING OR REFUSING TO APPROVE AN ALLOCATION OF SCHOOL  
682 SEAT CAPACITY MAY APPEAL THE DECISION TO THE TOWN BOARD OF APPEALS  
683 CREATED UNDER § 191-53 OF THIS CODE. EXCEPT TO THE EXTENT INCONSISTENT  
684 WITH THIS SECTION, PROCEEDINGS OF THE BOARD SHALL BE GOVERNED BY §§ 191-  
685 53C. AND D. OF THIS CODE AND THE BOARD'S RULES OF PROCEDURE.

686  
687 B. AN APPEAL PURSUANT TO SUBSECTION A. OF THIS SECTION MAY BE  
688 BASED ONLY ON ONE OR MORE OF THE FOLLOWING GROUNDS:

- 689 (1) THE DECISION IS CONTRARY TO LAW OR ILLEGAL.  
690  
691 (2) THE DECISION IS ARBITRARY OR CAPRICIOUS.  
692

693  
694 AN APPEAL MAY NOT CHALLENGE OR BE BASED UPON ERROR IN THE  
695 DETERMINATIONS OF THE CHIEF EXECUTIVE OFFICER IN DETERMINING GENERAL  
696 STUDENT GENERATION RATES OR OF TOWN COUNCIL REGARDING THE  
697 ESTABLISHMENT OF ALLOCATION POOLS PURSUANT TO SECTION 173-95.

698  
699 C. AN APPEAL SHALL BE INITIATED BY THE FILING OF A NOTICE OF  
700 APPEAL WITH THE TOWN BOARD OF APPEALS. THE NOTICE OF APPEAL SHALL BE  
701 FILED WITHIN TEN (10) DAYS FROM THE DATE OF THE DECISION BEING APPEALED  
702 FROM. THE APPEAL SHALL BE FILED ON FORMS PRESCRIBED BY THE CHIEF  
703 EXECUTIVE OFFICER CONSISTENT WITH THIS SECTION, AND SHALL BE  
704 ACCOMPANIED BY SUCH APPEAL FEE AS MAY BE ESTABLISHED BY RESOLUTION OF  
705 THE TOWN COUNCIL FROM TIME TO TIME.

706  
707 D. EACH NOTICE OF APPEAL MUST CONTAIN AT LEAST THE FOLLOWING:

- 708 (1) THE NAME AND ADDRESS OF THE APPELLANT;  
709  
710 (2) A STATEMENT IDENTIFYING THE DECISION THAT IS BEING APPEALED;  
711  
712 (3) A STATEMENT DESCRIBING HOW THE APPELLANT IS AGGRIEVED OR  
713 AFFECTED BY THE DECISION THAT IS BEING APPEALED;  
714  
715 (4) A DETAILED NARRATIVE EXPLANATION OF THE GROUNDS OF THE  
716 APPEAL;  
717  
718 (5) A STATEMENT DESCRIBING WITH SPECIFICITY THE MANNER IN WHICH  
719 THE DECISION FROM WHICH THE APPEAL IS TAKEN IS CONTRARY TO LAW, ILLEGAL,  
720

721 ARBITRARY OR CAPRICIOUS. THE NOTICE OF APPEAL SHALL CONTAIN SPECIFIC  
722 REFERENCES TO ALL STATUTES, ORDINANCES AND REGULATIONS ALLEGED TO BE  
723 VIOLATED BY THE DECISION; AND

724  
725 (6) A STATEMENT OF THE RELIEF REQUESTED BY THE APPELLANT.  
726

727 THE BOARD OF APPEALS SHALL DISMISS ANY NOTICE OF APPEAL THAT DOES NOT  
728 CONTAIN THE INFORMATION REQUIRED BY THIS SUBSECTION D.

729  
730 E. HEARINGS AND PROCEEDINGS ON AN APPEAL TO THE BOARD OF  
731 APPEALS SHALL BE BASED EXCLUSIVELY ON THE GROUNDS OF APPEAL, ISSUES  
732 AND MATTERS PRESENTED IN THE NOTICE OF APPEAL. THE BOARD MAY NOT  
733 CONSIDER ANY GROUND OF APPEAL, MATTER OR ISSUE THAT HAS NOT BEEN  
734 PRESENTED WITH SPECIFICITY IN THE NOTICE OF APPEAL. THE BOARD OF APPEALS  
735 MAY TAKE SUCH TESTIMONY AND EVIDENCE AS THE BOARD DEEMS NECESSARY  
736 OR DESIRABLE TO ASSIST IT IN CONSIDERING AN APPEAL.

737  
738 F. THE DECISION OF THE CHIEF EXECUTIVE OFFICER IS PRESUMED TO BE  
739 CORRECT, MADE IN ACCORDANCE WITH LAW AND LEGAL. THE BURDEN IS ON THE  
740 PERSON WHO APPEALS A DECISION TO DEMONSTRATE THAT:

741  
742 (1) THE DECISION IS CONTRARY TO LAW OR ILLEGAL;

743  
744 (2) THE DECISION IS ARBITRARY OR CAPRICIOUS;

745  
746 G. THE BOARD SHALL AFFIRM THE DECISION APPEALED FROM UNLESS  
747 THE BOARD FINDS THAT:

748  
749 (1) THE DECISION APPEALED FROM IS CONTRARY TO LAW OR ILLEGAL;

750  
751 (2) THE DECISION APPEALED FROM IS ARBITRARY OR CAPRICIOUS;

752  
753 IF THE BOARD MAKES ANY SUCH FINDING, THE BOARD MAY REVERSE THE  
754 DECISION OF THE CHIEF EXECUTIVE OFFICER IN WHOLE OR IN PART, OR MAY  
755 MODIFY THE DECISION, CONDITION OR REQUIREMENT APPEALED FROM AND MAKE  
756 SUCH DECISION, CONDITIONS OR REQUIREMENTS AS COULD HAVE BEEN MADE BY  
757 THE CHIEF EXECUTIVE OFFICER. THE BOARD ALSO MAY REMAND THE MATTER TO  
758 THE CHIEF EXECUTIVE OFFICER FOR SUCH FURTHER PROCEEDINGS OR  
759 DETERMINATIONS AS THE BOARD OF APPEALS DETERMINES TO BE APPROPRIATE.

760

761 H. ANY PERSON OR PERSONS JOINTLY OR SEVERALLY AGGRIEVED BY A  
762 DECISION OF THE BOARD OF APPEALS UNDER THIS SECTION, OR ANY OFFICER,  
763 DEPARTMENT, BOARD OR BUREAU OF THE TOWN, MAY APPEAL THE DECISION OF  
764 THE BOARD OF APPEALS TO THE CIRCUIT COURT FOR CHARLES COUNTY. SUCH AN  
765 APPEAL TO THE CIRCUIT COURT SHALL BE FILED WITHIN THIRTY (30) DAYS FROM  
766 THE DECISION OF THE BOARD.

767  
768 I. A SCHOOL SEAT ALLOCATION IS NOT EFFECTIVE UNTIL THE EARLIER  
769 TO OCCUR OF:

770  
771 (1) 10 DAYS FROM THE DATE OF THE ALLOCATION IF NO APPEAL IS FILED  
772 UNDER THIS SECTION, OR

773  
774 (2) IF AN APPEAL IS FILED, UNTIL A FINAL DECISION HAS BEEN RENDERED  
775 AND THE TIME FOR ALL FURTHER APPEALS HAS EXPIRED.

776  
777 **SECTION 4: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE**  
778 **TOWN OF LA PLATA** that there hereby is established a moratorium on the approval of final  
779 subdivision plats and the approval and issuance of building permits by the Town of La Plata as follows:

780  
781 A. Subject to Paragraph B. below, commencing on the effective date of this Ordinance, the Town  
782 of La Plata shall not:

783  
784 1. Grant any approval for any final plat for the subdivision of land into lots for the  
785 development or construction of any dwellings or dwelling units.

786  
787 2. Grant any approval for any final plat for the resubdivision of land where the proposed  
788 resubdivision would result in an increase in the number of dwellings or dwelling units to be developed and  
789 constructed within the development.

790  
791 3. Approve or issue any building permit for the development or construction of any  
792 dwelling or dwelling unit.

793  
794 B. The moratorium established by Paragraph A. above shall not apply to the approval or issuance  
795 of any final plat of subdivision or resubdivision or building permit, intended for the development or  
796 construction of dwelling units whose occupancy is restricted to persons fifty-five (55) years of age or older,  
797 nursing homes, or any other type of residential construction that will not generate additional school age  
798 population.

799  
800 C. The moratorium established by Paragraph A. above shall expire without further action of the  
801 Town Council at such time as student generation rates and school seat allocation pools required by

802 Sections 173-94 and 173-95 as enacted by Section 1 of this Ordinance are adopted by the Town Council  
803 and become effective, or March 31, 2005, whichever occurs first.

804  
805 **SECTION 5: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE**  
806 **TOWN OF LA PLATA** that if any provision of this Ordinance, or the application thereof to any person  
807 or circumstance, is held invalid for any reason, such invalidity shall not affect the other provisions or any  
808 other application of this Ordinance which can be given effect without the invalid provisions or application,  
809 and to this end, all the provisions of this Ordinance are hereby declared to be severable.

810  
811 **SECTION 6: AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE**  
812 **TOWN OF LA PLATA** that this Ordinance shall become effective at the expiration of fifteen (15)  
813 calendar days after its approval by the Council.

814  
815 **ADOPTED** this 8th day of February, 2005.

816  
817 **COUNCIL OF THE TOWN OF LA PLATA**

818  
819 \_\_\_\_\_  
820 William F. Eckman, Mayor

821  
822 \_\_\_\_\_  
823 Wayne Winkler, Councilman

824  
825 \_\_\_\_\_  
826 C. Keith Back, Councilman

827  
828 \_\_\_\_\_  
829 Eugene Ambrogio, Councilman

830  
831 \_\_\_\_\_  
832 Roy G. Hale, Councilman

833  
834 ATTEST:

835  
836 \_\_\_\_\_  
837 Judith T. Frazier, Town Clerk

838 Date: \_\_\_\_\_

**EXPLANATION:**

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

((Double Parenthesis)) indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.