

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 14

Bill No. 41 -2012

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the allocation categories used in the Housing Unit Allocation Chart, clarifying certain definitions, providing for the application of this Act, and generally relating to adequate public facilities in Howard County.

Introduced and read first time _____, 2012. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2012.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2012 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2012 at ___ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2012

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 *By amending:*

- 5 1. *Title 16- Planning, Zoning and Subdivisions and Land Development Regulations.*
6 *Section 16.1102. Housing unit allocation concept; housing unit allocation chart.*
7 *Subsection (b), as enacted by Council Bill No. 62-2008*
8
- 9 2. *Title 16- Planning, Zoning and Subdivisions and Land Development Regulations.*
10 *Section 16.1104. Housing unit allocation process.*
11 *Subsections (c), (g), (h) and (i)*
12
- 13 3. *Title 16 – Planning, Zoning and Subdivisions and Land Development Regulations.*
14 *Section 16. 1110. Definitions.*
15 *Subsection (o) and (ae).*
16

17 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

18 **Subtitle 11. Adequate Public Facilities.**

19
20 **Section 16.1102. - Housing unit allocation concept; housing unit allocation chart.**

21 (b) *Housing Unit Allocation Chart:*

- 22 (1) *Description.* The housing unit allocation chart is a chart indicating the projected number
23 of housing unit allocations available to be granted in the County each year for a ten-year
24 period. The chart is designed to specify housing unit allocations for the scheduled
25 completion year of a project or any phase of a project. The chart divides the available
26 housing unit allocations into THE FOLLOWING CATEGORIES BASED ON GEOGRAPHIC
27 AREAS AS SET FORTH IN THE GENERAL PLAN: GROWTH AND REVITALIZATION,
28 ESTABLISHED COMMUNITIES, THE RURAL WEST AND DOWNTOWN COLUMBIA, AND
29 GREEN NEIGHBORHOOD UNITS. [[planning regions, and may provide for a set aside of
30 housing unit, allocations for the revitalization of the US Route 1 Corridor, senior housing

1 units, affordable housing units, Green Neighborhood and Downtown Columbia units. The
2 set aside for senior housing units and affordable housing units may be assigned to a
3 specific planning region, selected regions or countywide.]]

4 (2) *Basis.* The basis of the housing unit allocation chart is the general plan GEOGRAPHIC
5 targets for residential growth [[by planning region]]. However, if the general plan
6 monitoring report indicates that general plan policies for agricultural preservation[[.]]
7 AND environmental protection [[and affordable housing]] are not being met, the housing
8 unit allocation chart may be adjusted to more effectively achieve these policies.

9 (3) *Preparation and adoption.* The Department of Planning and Zoning shall prepare and
10 update the housing unit allocation chart for consideration and adoption by the County
11 Council. Once each year, and more often if the Council determines that amendments are
12 appropriate, the county council shall adopt the housing unit allocation chart by resolution,
13 after a public hearing. Whenever the housing unit allocation chart is adopted or amended,
14 the open/closed chart shall be adopted or amended concurrently to be consistent.

15 (4) *Amendments for economic development; grants, etc.:* From time to time, the County may
16 be presented with opportunities for economic development r availabilities of state or
17 federal grant moneys which require increasing the number of housing unit allocations for
18 distribution for a given year. In order to take advantage of these opportunities, the County
19 Council may, at any time, amend the housing unit allocation chart for a certain year or
20 years. If the Council makes such an amendment, it shall use the rolling average (see
21 Section 16.1110, “Definitions”) to amend the number and/or [[regional]] distribution of
22 allocations for subsequent years.

23 [[(5) *Route 1 Revitalization Allocations:* To encourage revitalization along the US Route 1
24 corridor, the number of housing unit allocations shall be increased by 250 additional
25 allocations each year, beginning in Fiscal Year 2004. The Route 1 revitalization housing
26 unit allocations are to be used solely for revitalization purposes in multi-use
27 developments that include residential and office or retail uses. Only projects east of US
28 Interstate 95 shall be eligible to receive Route 1 revitalization allocations. No more than
29 50% of the allocations shall be granted to a single project. A project or development
30 utilizing Route 1 revitalization allocations must also satisfy the remaining applicable
31 provisions of the Adequate Public Facilities Ordinance, including the Open/Closed
32 Schools Test and the Adequate Road Facilities test.]]

1 [[6)] *Moderate income housing allocations.* To encourage the construction of more moderate
2 income housing and to create units that are more affordable to young workers, first-time
3 homebuyers, and retirees, beginning in fiscal year 2007 the number of housing unit
4 allocations shall be increased by 100 moderate income housing unit allocations each year
5 as follows:

- 6 (i) Except as provided in subsection (iv), the moderate income housing unit
7 allocations shall be used for moderate income housing units that satisfy the
8 moderate income housing unit provisions of title 13 of this Code;
- 9 (ii) A development may only receive moderate income housing unit allocations for
10 the number of moderate income housing units that are required by the zoning
11 regulations, except that if a developer proffers more moderate income housing
12 units than is required by the zoning regulations, the development may receive
13 additional moderate income housing unit allocations for the proffered units;
- 14 (iii) No more than one-third of all of the units in a development may receive moderate
15 income housing unit allocations;
- 16 (iv) Moderate income housing unit allocations may be used for market rate housing
17 units if:
 - 18 a. The development is a multiyear phased project; and
 - 19 b. In each phase of construction, the percentage of moderate income
20 housing units is no less than that required by the zoning regulations; and
- 21 (v) The subdivision or site development plan, including the moderate income
22 housing units, is subject to the tests for adequate road facilities and adequate
23 public school facilities as provided in sections 16.1101 and 16.1103 of this
24 Code.]]

25 [[7)](5) *Green neighborhood allocations.* To encourage sustainable residential planning and
26 design, to minimize adverse impacts on natural resources, and to promote energy
27 efficiency, beginning in fiscal year 2008:

- 28 (i) The annual housing unit allocation chart may move up to 100 allocations per year
29 from other housing allocation categories to be used solely for housing that meets
30 green neighborhood standards adopted by resolution of the County Council;
- 31 (ii) A development using green neighborhood allocations shall satisfy the remaining
32 applicable provisions of this subtitle[; and

1 (iii) No more than 50 percent of the green neighborhood allocations shall be granted
2 in a given region per year]].

3 ~~[[8]]~~(6) *Downtown Columbia Housing allocations*. To encourage the revitalization of
4 Downtown Columbia, beginning in fiscal year 2011 the number of housing unit
5 allocations shall be increased to provide allocations consistent with the phasing
6 progression in the adopted Downtown Columbia plan as follows:

7 (i) For Downtown Columbia revitalization, the housing unit allocation chart adopted
8 each year by the County Council shall include the total number of residential
9 units allowed in the current phase of the downtown revitalization phasing
10 progression, and shall also include the total number of units allowed in the
11 downtown revitalization phasing progression for all subsequent phases of
12 downtown revitalization.

13 (ii) The annual distribution of allocations within each phase shall ensure that
14 sufficient allocations are available at the beginning of each phase to take
15 advantage of mixed-use market opportunities and ensure timely achievement of
16 phasing progression and CEPPA requirements.

17 (iii) The granting of allocations for downtown revitalization is made independent of
18 and without reference to the number of allocations for the planning region of
19 Columbia. The granting of allocations for development under new Town zoning
20 that is not subject to the downtown revitalization phasing progression continues
21 to be based on the allocations for the Columbia Planning Region.

22 (iv) Development in Downtown Columbia may not use ~~[[Senior East, MIHU,~~
23 ~~Columbia, or]]~~ Green Neighborhood allocations.

24 (v) If the total number of residential units proposed in a final development plan
25 application exceeds the number of available allocations for the scheduled
26 completion year of either the initial phase or any additional phase(s), the
27 developer may request and the department of planning and zoning shall authorize
28 the advancing of allocations from future years needed to complete a
29 comprehensive final development plan provided that:

- 30 a. The plan complies with phasing progression requirements;
- 31 b. All necessary CEPPA requirements have been met;
- 32 c. All adequate public facilities transportation tests have been passed; and

1 d. The adequate public facilities schools tests have been passed.

2 (vi) Allocations will become permanent upon the recordation of the approved final
3 development plan, and will remain valid provided the developer continues to
4 meet all required milestones.
5

6 **Section 16.1104. - Housing unit allocation process.**

7 (c) *Year of Allocation; Category of Allocation.* Except as provided in subsection (h) of this section, the
8 Department of Planning and Zoning shall grant housing unit allocations from the housing unit allocation
9 chart as follows:

10 (1) *Unphased projects.* Unphased projects shall be granted housing unit allocations for the
11 scheduled completion years of the project.

12 (2) *Phased projects.* Phased projects shall be granted housing unit allocations for the
13 scheduled completion years of each phase of the project.

14 (3) *Comprehensive projects.* Comprehensive projects shall receive allocations for the
15 scheduled completion year of the project or phases of the project.

16 (4) *CHANGES TO ALLOCATION CATEGORIES.* PHASED PROJECTS SHALL RETAIN ALLOCATIONS
17 GRANTED UNDER ALL PREVIOUS ALLOCATION CHARTS, BUT FOR FUTURE PHASES SHALL
18 BE ASSIGNED ALLOCATIONS FROM THE APPROPRIATE NEW ALLOCATION CATEGORY

19 (g) *ORDER OF GRANTING ALLOCATIONS:*

20 [[(1) Except as provided in paragraph (2) of this subsection, if]] If a project is eligible for
21 allocations from more than one category, an allocation granted under this subtitle shall
22 generally be granted from the [[following types of allocations in the following order:

23 (i) Route 1;

24 (ii) Senior East;

25 (iii) Planning region; and

26 (iv) Affordable East.

27 (2)]] APPROPRIATE GEOGRAPHIC AREA, PRIOR TO GRANTING GREEN NEIGHBORHOOD
28 ALLOCATIONS. The Department may grant allocations to a project in a different sequence
29 if the grant more equitably distributes allocations among all projects waiting for
30 allocations.

31 [[(h) *Advancing of Route 1 Revitalization Allocations.* Provided that the total number of Route 1
32 revitalization allocations advanced into any given year shall not exceed 250 allocations and the

1 project is located outside of the portion of the ElkrIDGE Region that is bordered to the northwest
2 by Interstate 95 and southwest by an unnamed tributary of Deep Run located at the Howard
3 County/Anne Arundel County line, approximately 100 ft. Southwest of Hanover Road, the
4 Department of Planning and Zoning may advance Route 1 revitalization allocations as follows:

- 5 (1) A project that is eligible for Route 1 revitalization allocations may receive up to
6 125 allocations per year from future allocation years for the Route 1 revitalization
7 allocation region.
- 8 (2) A project is not eligible for advanced Route 1 revitalization allocations if it has
9 more than a total of 150 allocations in the year to which allocations are to be
10 advanced, regardless of whether the allocations for the year are advanced or
11 current or made up of a combination of allocation types.
- 12 (3) If Route 1 revitalization allocations are not available in the current year the
13 Department of Planning and Zoning shall process the project as if Route 1
14 revitalization allocations were granted. However, the Department of Planning and
15 Zoning shall carry the project on the list of project applications waiting for Route
16 1 revitalization allocations.
- 17 (4) When Route 1 revitalization allocations become available to serve the project, the
18 Director of Planning and Zoning shall assign Route 1 revitalization allocations to
19 the project. In calculating the rolling average, the project shall not be exempt and
20 its allocations shall be included in the year in which they become available and
21 are assigned.
- 22 (5) A development using advanced Route 1 revitalization allocations under this
23 subsection shall satisfy the remaining applicable provisions of the adequate public
24 facilities ordinance, including the open/closed schools test and the adequate road
25 facilities test.]]

26 *[[i) Advancing of Route 1 Allocations, Route 1 Public Facility Contribution. Any developer*
27 *electing to utilize advanced Route 1 allocations shall contribute real property for public facilities*
28 *serving the portion of Route 1 Corridor in which advanced allocations are permitted, including*
29 *but not limited to schools, libraries, fire stations and community centers.*

1 Contributions of real property of real property shall:

- 2 (1) Be suitable for the construction of public amenities in the Route 1 corridor; and
- 3 (2) Be acceptable to Howard County Government or the Board of Education of
4 Howard County for a public facility needed by the community; and
- 5 (3) Constitute real property that is not already required to be dedicated to the County
6 pursuant to title 16, subtitle 1 of the Howard County Code.]]

7
8 **Section 16.1110. Definitions.**

9 (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit
10 allocations available to be granted in the County each year for a ten-year period. The chart
11 divides the available housing unit allocations into [[planning regions]] GEOGRAPHIC AREAS AND
12 MAY PROVIDE FOR GREEN NEIGHBORHOOD AND DOWNTOWN COLUMBIA UNITS [[and may provide
13 for a set aside for elderly housing by region or Countywide]]. The number of housing unit
14 allocations on the chart shall be as follows:

- 15 (1) In the first year after the effective date of this subtitle the number of housing unit
16 allocations on the chart for that year and each of the next two years shall equal the
17 general plan annual target for residential completions for those years.
- 18 (2) In the second year after the effective date of this subtitle, the number of housing
19 unit allocations on the chart for that year and for each of the next two years, based
20 on the rolling average, shall be the general plan target for residential completions
21 for the year in question minus one-third of the difference between:
 - 22 (i) The number of housing unit allocations granted during the prior year plus
23 the number of housing units in projects approved during the prior year
24 which were exempt from the provisions of this subtitle pursuant to
25 subsections 16.1107(b)(1) and (5) of this subtitle; and
 - 26 (ii) The prior year's general plan target.
- 27 (3) In the third and later years after the effective date of this subtitle, the number of
28 housing unit allocations on the chart for the current year and for each of the next
29 two years, based on the rolling average, shall be the general plan target for

1 residential completions for the year in question minus one-third of the difference
2 between:

3 (i) The housing unit allocations granted during the two preceding years plus
4 the housing units in projects approved during two preceding years which
5 were exempt from the provisions of this subtitle pursuant to subsections
6 16.1107(b)(1) and (5) of this subtitle; and

7 (ii) The sum of the general plan targets for the two preceding years.

8 (4) IN ORDER TO PROVIDE FLEXIBILITY FOR DEVELOPMENT IN AREAS DESIGNATED IN
9 THE GENERAL PLAN AS ESTABLISHED COMMUNITIES OR GROWTH AND
10 REVITALIZATION AREAS, ANY UNUSED ANNUAL ALLOCATIONS FOR THESE AREAS
11 MAY BE COMBINED AND REDISTRIBUTED, USING THE ROLLING AVERAGE, INTO A
12 SINGLE ALLOCATION CATEGORY THAT MAY BE USED BY DEVELOPMENT PROJECTS IN
13 EITHER GEOGRAPHIC AREA.

14 [[(ae) *Planning region* means a geographic area of the County identified in the general plan that
15 is used for forecasting housing growth.]]

16
17 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
18 *any allocation that has been granted for years up to and including 2015 shall remain a valid*
19 *allocation pursuant to Section 16.1102(b) of the Howard County Code as that Code provision*
20 *existed prior to December 3, 2012.*

21
22 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
23 *the Department of Planning and Zoning may administratively assign allocations that were*
24 *tentatively granted and Route 1 Revitalization Allocations that were advanced on or before*
25 *December 3, 2012 for years 2016 and beyond.*

26
27 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
28 *this Act shall become effective 61 days after its enactment.*