

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

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. **10**

Bill No. 61-2017

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

AN ACT amending the Adequate Public Facilities Act requiring certain periodic review; specifying completion timelines for certain types of road remediation projects; requiring that certain agreements contain certain provisions with regard to the timing of road mitigation projects; amend the title of certain charts and other terminology; requiring certain waiting periods; clarifying certain exemptions; defining certain terms; amending certain definitions; making certain technical corrections; and generally relating to the Adequate Public Facilities Act of Howard County.

Introduced and read first time _____, 2017. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, 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 _____, 2017.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2017 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2017 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, 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 **WHEREAS**, the Adequate Public Facilities Ordinance (“Ordinance”) is a land use policy
2 first recommended in Howard County, Maryland’s 1990 General Plan to manage the pace of
3 growth; and
4

5 **WHEREAS**, the Ordinance links residential construction to an elementary schools test, a
6 middle schools test, a school regions test, a roads test (both residential and commercial), and a
7 housing unit allocations test; and
8

9 **WHEREAS**, the 2015 Department of Planning and Zoning Transition Team Report
10 recommended the County Executive review the Ordinance to consider factors that have the
11 potential to influence growth in new ways; and
12

13 **WHEREAS**, the County Executive issued Executive Order 2015-05 establishing an
14 Adequate Public Facilities Review Task Force (“Task Force”) to review the current Act and
15 make recommendations for possible improvements; and
16

17 **WHEREAS**, the Task Force met over the course of 10 months to develop
18 recommendations; and
19

20 **WHEREAS**, the chair and vice chair of the Task Force presented the Task Force report,
21 which included recommendations, to the County Executive in April 2016; and
22

23 **WHEREAS**, the County Executive requested the Department of Planning and Zoning to
24 analyze the recommendations and submit a Technical Staff Report on them; and
25

26 **WHEREAS**, County Administration presented the recommendations to the County
27 Council on April 10, 2017 and the Howard County Board of Education on June 8, 2017; and
28
29

1 **WHEREAS**, this Act amends certain provisions of the Ordinance based on the County
2 Executive’s assessment of the Task Force report and Technical Staff Report in order to
3 accomplish the goal of improving growth management in Howard County.

4
5 **NOW, THEREFORE,**

6
7 **Section 1. *Be It Enacted*** by the County Council of Howard County, Maryland, that the Howard
8 County Code is amended as follows:

9
10 *1. By amending Title 16. Planning, Zoning and Subdivisions and Land Development*
11 *Regulations, Subtitle 1 “Subdivision and Land Development Regulations”.*

12
13 *a. Section 16.147 “Final subdivision plan and final plat”*
14 *Subsection (e)*

15
16 *b. Section 16.156 “Procedures”*
17 *Subsection (k)*

18
19 *2. By amending Title 16. Planning, Zoning and Subdivisions and Land Development*
20 *Regulations, Subtitle 11 “Adequate Public Facilities Act”:*

21
22 *a. Section 16.1100 “Short title; background; purpose; organization”*
23 *Subsection (b)(3)*

24
25 *b. Section 16.1101 “Adequate transportation facilities”*
26 *Subsection (d)*

27
28 *c. Section 16.1102 “Housing unit allocation concept; housing unit allocation chart”*
29 *Subsection (b)(3)*

30
31 *d. Section 16.1103 “Adequate school facilities”.*

1 *Subsection (b) and (c)*

2
3 *e. Section 16.1105 “Processing of plans subject to test for adequate transportation facilities*
4 *and/or tests for adequate school facilities and/or test for housing unit allocations”*

5 *Subsection (c)*

6
7 *f. Section 16.1110 “Definitions”*

8
9 3. *By adding paragraph (8) to subsection (b) of Section 16.1107 “Exemptions”.*

10
11 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

12 **Subtitle 1. Subdivision and Land Development Regulations.**

13 **Article IV. Procedures for filing and processing subdivision applications.**

14
15 **Section 16.147. Final subdivision plan and final plat.**

16 (e) *[[Developer's Agreement]]DEVELOPER AGREEMENTS.* After final plan approval and signature
17 approval of all construction drawings and prior to the submission of the original final plat, the
18 developer shall post with the County all necessary monies and file a developer's agreement and if
19 required, a major facilities agreement and/or a shared sewage disposal facility developer
20 agreement. The developer's agreement(s) shall cover financial obligations with appropriate
21 security guaranteeing installation of all required improvements, installation and warranty of a
22 shared sewage disposal facility on a cluster subdivision in the RR or RC zoning district, and
23 fulfillment of the protection and management requirements of the approved forest conservation
24 plan. The agreement may provide that the developer may be partially released from the surety
25 requirements of the agreement upon partial completion of the work in accordance with criteria
26 established by the Department of Public Works. THE AGREEMENT SHALL PROVIDE WHEN THE
27 OFFSITE ROAD IMPROVEMENTS ARE REQUIRED TO BE STARTED IN THE SEQUENCE OF
28 CONSTRUCTION. THE SEQUENCE OF CONSTRUCTION, AS SET FORTH IN THE APPROVED PLANS AND
29 SPECIFICATIONS, SHALL BE INCORPORATED INTO THE AGREEMENT BY REFERENCE. FAILURE TO
30 CONSTRUCT ROAD IMPROVEMENTS IN ACCORDANCE WITH THE DEVELOPER AGREEMENT, AND
31 INCORPORATED APPROVED PLANS AND SPECIFICATIONS, MAY RESULT IN DEFAULT IN ACCORDANCE

1 WITH THE AGREEMENT AND BUILDING PERMITS SHALL NOT BE ISSUED. The Director of the
2 Department of Planning and Zoning may authorize submission of the original final plat if the
3 developer agreement is not complete, but is in process and can be fully executed in a timely
4 manner.

5
6 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

7 **Subtitle 1. Subdivision and Land Development Regulations.**

8 **Article V. Procedures for filing and processing site development plan applications.**

9
10 **Section 16.156. Procedures.**

11 (k) *Developer Agreements; Major Facilities Agreements.* Concurrent with the approval of the
12 site development *plan*, the developer shall execute the developer agreement(s) and major
13 facilities agreement, if any, for required improvements and, where applicable, for fulfillment of
14 the protection and management requirements of the approved forest conservation *plan*. The
15 agreement may provide that the developer may be partially released from the surety requirements
16 upon partial completion of the work in accordance with criteria established by the Department of
17 Public Works. THE AGREEMENT SHALL PROVIDE WHEN THE OFFSITE ROAD IMPROVEMENTS ARE
18 REQUIRED TO BE STARTED IN THE SEQUENCE OF CONSTRUCTION. THE SEQUENCE OF
19 CONSTRUCTION, AS SET FORTH IN THE APPROVED PLANS AND SPECIFICATIONS, SHALL BE
20 INCORPORATED INTO THE AGREEMENT BY REFERENCE. FAILURE TO CONSTRUCT ROAD
21 IMPROVEMENTS IN ACCORDANCE WITH THE DEVELOPER AGREEMENT, AND INCORPORATED
22 APPROVED PLANS AND SPECIFICATIONS, MAY RESULT IN DEFAULT IN ACCORDANCE WITH THE
23 AGREEMENT AND BUILDING PERMITS SHALL NOT BE ISSUED.

24
25 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

26 **Subtitle 11. Adequate Public Facilities.**

27
28 **Section 16.1100. Short title; background; purpose; organization.**

29 (b) *Background:*

30 (3) *Elements of the growth management process.* This subtitle is one of five interconnected
31 elements that constitute the growth management process. Each element has a part to play

1 in providing the predictability required for planning and implementing adequate public
2 facilities.

3 (i) *Establishing policy.* The general plan, the zoning plan, and the standards in this
4 subtitle constitute the policy base for the growth management process. This common
5 base is the platform from which data are generated and planning documents written.

6 (ii) *Capital planning.* Capital improvement master plans define the necessary public
7 school, road, solid waste, and water and sewerage infrastructure which supports the
8 land use and growth policies established in the general plan. Capital improvement
9 master plans will minimally contain planning assumptions, standards of service,
10 descriptions of additions and improvements, justification and priorities for additions
11 and improvements, and budget projections for each of the next ten years. The plans
12 will be reviewed and approved annually.

13 (iii) *Revenue allocation.* Limited resources will require coordinated allocation of funds
14 for roads, schools and other facilities. The Planning Board, the County Executive,
15 the County Council, and participating agencies and departments will work together
16 to review priorities and budget projections included in the capital improvement
17 master plans. The County Council will conduct a public hearing and, through
18 adoption of the capital budget and capital improvement program, will approve the
19 distribution of funds across capital improvement master plans.

20 The building excise tax (see title 20, subtitle 5 of the Howard County Code),
21 enhances the County's ability to provide adequate public road facilities.

22 (iv) *Adequate public facilities.* The general plan guides where and when growth occurs.
23 The adequate public facilities process and standards will manage growth so that
24 facilities can be constructed in a timely manner.

25 (v) *Monitoring growth.* The Department of Planning and Zoning will develop statistics
26 and other pertinent data which will be continually used to assess the growth
27 management process so that status reports can be prepared and adjustments
28 recommended regarding the growth management process.

29 (VI) *PERIODIC REVIEW.* AFTER REVISION OF THE GENERAL PLAN FOR THE COUNTY AS
30 REQUIRED BY SECTION 16.801 OF THIS CODE, AN ADEQUATE PUBLIC FACILITIES ACT
31 REVIEW COMMITTEE SHALL MEET AND PROVIDE A REPORT TO THE DEPARTMENT OF

1 PLANNING AND ZONING. THE REPORT SHALL INCLUDE ANY PROPOSED CHANGES TO
2 THIS ACT.

3
4 **Section 16.1101. Adequate transportation facilities.**

5 (d) *Road Facilities to Be Included in Determining Adequacy.* In determining whether a proposed
6 project passes the test for adequate road facilities, the following road facilities shall be considered
7 as existing in the scheduled completion year of the project:

- 8 (1) Road facilities in existence as of the date the developer submits the application for
9 approval of the project;
- 10 (2) New road facilities or improvements to existing road facilities for which sufficient funds
11 have been included in the Howard County Capital Program or Extended Capital Program
12 as defined in title 22 of the Howard County Code or the Maryland Consolidated
13 Transportation Program so that the facilities will be substantially completed before or
14 during the scheduled completion year of the project, unless the Director of Planning and
15 Zoning, after consultation with the Director of Public Works, demonstrates that such
16 facilities or improvements are not likely to be completed by that time.
- 17 (3) New road facilities or improvements to existing road facilities which:
 - 18 (i) Have been included in developers' mitigation plans submitted for approval to the
19 Department of Planning and Zoning before the project which is being tested; [[and]]
 - 20 (ii) Which are scheduled to be substantially completed before or during the scheduled
21 completion year of the proposed project[.]; AND
 - 22 (iii) HAVE BEEN INCLUDED IN A DEVELOPER AGREEMENT WHICH SHALL INCLUDE THE
23 INFORMATION REQUIRED BY SECTION 16.147(E) AND SECTION 16.156 (K) OF THIS
24 CODE.
- 25 (4) The mitigation proposed by the developer.

26
27 **Section 16.1102. Housing unit allocation concept; housing unit allocation chart.**

- 28 (b) *Housing Unit Allocation Chart:*
 - 29 (3) *Preparation and adoption.* The Department of Planning and Zoning shall prepare and
30 update the housing unit allocation chart for consideration and adoption by the County
31 Council. Once each year, and more often if the Council determines that amendments are

1 appropriate, the county council shall adopt the housing unit allocation chart by resolution,
2 after a public hearing. Whenever the housing unit allocation chart is adopted or amended,
3 the [[open/closed]]SCHOOL CAPACITY chart shall be adopted or amended concurrently to
4 be consistent.

5
6 **Section 16.1103. Adequate school facilities.**

7 (b) *The Tests for Adequate Public Schools.* A proposed residential project will pass the tests for
8 adequate public schools if the [[open/closed]]SCHOOL CAPACITY chart (see subsection (c),
9 "[[Open/Closed]]SCHOOL CAPACITY Chart," below) indicates that:

10 (([i])1) The elementary school region where the proposed project will be located will be
11 open for new residential development during the scheduled completion year of the project
12 and any phase of a project; and

13 (([ii])2) The elementary and middle schools which will serve the proposed project will be
14 open for new residential development during the scheduled completion year of the project
15 and any phase of a project.

16 (c) [[Open/Closed]]*SCHOOL CAPACITY Chart Preparation and Adoption:*

17 (1) *Definition.* The [[open/closed]]SCHOOL CAPACITY chart is a chart indicating which
18 elementary school regions and which elementary schools and middle schools are open for
19 new residential development and which are [[closed]] CONSTRAINED each year for each
20 of the following ten years.

21 (2) *Basis of chart.* The basis of the [[open/closed]]SCHOOL CAPACITY chart is the
22 assumptions used by the [[Department]]BOARD of Education in predicting enrollment,
23 such as school capacity, current enrollment, demographic and growth trends, and the
24 housing unit allocation chart.

25 (3) *Preparation and adoption of [[open/closed]]SCHOOL CAPACITY chart.* The
26 [[open/closed]]SCHOOL CAPACITY chart is designed to work in conjunction with the
27 housing unit allocation chart in order to provide consistency and predictability in the
28 planning process for schools. For that reason, the [[open/closed]]SCHOOL CAPACITY chart
29 shall be revised for consistency concurrent with any amendments to the housing unit
30 allocation chart.

1 The Department of Planning and Zoning shall receive the [[open/closed]]SCHOOL
2 CAPACITY chart, from the [[Department]]BOARD of Education. The
3 [[open/closed]]SCHOOL CAPACITY chart shall be submitted to the County Council for
4 adoption by resolution after a public hearing. Whenever the County Council adopts,
5 amends, or updates the housing unit allocation chart, it shall concurrently adopt the
6 [[open/closed]]SCHOOL CAPACITY chart.

7
8 **Section 16.1105. Processing of plans subject to test for adequate transportation facilities**
9 **and/or tests for adequate school facilities and/or test for housing unit allocations.**

10 (c) *Processing Applications for Approval of Residential Projects and Projects Containing*
11 *Residential and Nonresidential Uses:*

12 (1) *Adequate transportation facilities test.* Upon receipt of a complete application for
13 approval of a residential project or a project containing residential and nonresidential
14 uses, the project shall be tested for adequate transportation facilities.

15 (2) *Test for allocations:*

16 (i) *Conventional residential projects.* If the conventional residential project meets the
17 requirements of the subdivision regulations and passes the test for adequate
18 transportation facilities, the project will then be tested for availability of housing unit
19 allocations.

20 a. *Allocations available.* If housing unit allocations are available for the scheduled
21 completion year for unphased projects or for the scheduled completion year for
22 the initial and future phases for phased projects, the Director of Planning and
23 Zoning shall assign tentative housing unit allocations.

24 b. *Allocations not available.* If housing unit allocations are not available for the
25 scheduled completion year for unphased projects or for the scheduled
26 completion year for the initial or future phases for phased projects, the
27 application shall be placed on the bottom of a list of applications waiting for
28 housing unit allocations.

29 c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit
30 allocation chart is adopted, the Department of Planning and Zoning shall test
31 projects on the list of applications waiting for housing unit allocations. When

1 housing unit allocations become available to serve a project, the Director of
2 Planning and Zoning shall assign tentative allocations.

3 (ii) *Comprehensive projects.* Upon receipt of a complete initial plan stage application for
4 approval of a comprehensive project, the Department of Planning and Zoning shall
5 test the project for housing unit allocations.

6 a. *Allocations available.* If housing unit allocations are available for the scheduled
7 completion year for unphased projects or for the scheduled completion year for
8 the initial and future phases for phased comprehensive projects, the Director of
9 Planning and Zoning shall assign tentative housing unit allocations.

10 b. *Allocations not available.* Subject to subsection 16.1104(b)(2), if housing unit
11 allocations are not available for the scheduled completion year for unphased
12 projects or for the scheduled completion year for the initial or future phases for
13 phased comprehensive projects, the application shall be placed on the bottom of
14 a list of applications waiting for housing unit allocations.

15 c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit
16 allocation chart is adopted, the Director of Planning and Zoning shall test
17 projects on the list of applications waiting for housing unit allocations. When
18 housing unit allocations become available to serve a project, or phase of a
19 project, the Director of Planning and Zoning shall assign tentative allocations.

20 (3) *[[Open/closed]]SCHOOL CAPACITY test.* Upon assignment of tentative housing unit
21 allocations, the project shall be tested for adequate public schools.

22 (i) *Projects passing [[open/closed]]SCHOOL CAPACITY test.* Once a project has passed
23 the [[open/closed]]SCHOOL CAPACITY test, no further approval for adequate public
24 facilities for that project is required during the subdivision or site development plan
25 approval process, except as provided in subsection 16.1105(d).

26 (ii) *Projects failing [[open/closed]]SCHOOL CAPACITY test.* PARAGRAPH (7) OF THIS
27 SUBSECTION SHALL APPLY IF [[If]] a project fails one or more components of the
28 [[open/closed]]SCHOOL CAPACITY test for the scheduled completion year for
29 unphased projects or for the scheduled completion year for the initial or future phases
30 for phased projects[, the project or phase of the project failing the open/closed test
31 shall be retested for each of the next three consecutive years. If the project or phase

1 of the project passes the test in any of those years it shall be permitted to proceed
2 with processing three years prior to the year in which it passes the open/closed test.
3 If the project or phase of the project fails the test for each of the next three
4 consecutive years, it shall be deemed to have passed the open/closed test in the fourth
5 year and shall be permitted to proceed with processing three years prior to the year
6 it is deemed to have passed the test]].

7 [[(iii) *Projects failing open/closed test due to incorrect advisory comments.* If a project
8 has failed the November 6, 2001 open/closed test due to reliance on incorrect
9 Department of Planning and Zoning advisory comments regarding that project's
10 elementary school region prior to a determination by the Board of Education, the
11 project may be permitted to retake the schools test once retroactively to November
12 6, 2001 based on an amended subdivision sketch plan without losing its allocations.]]

13 (4) *Revised [[open/closed]]SCHOOL CAPACITY chart adopted.* Whenever a revised
14 [[open/closed]]SCHOOL CAPACITY chart is adopted, the Department of Planning and
15 Zoning shall test projects which have previously failed the [[open/closed]]SCHOOL
16 CAPACITY test. If a project or phase of a project passes the [[open/closed]]SCHOOL
17 CAPACITY test in an earlier year than provided in subsection (c)(3)(ii) above, the project
18 shall be permitted to proceed with processing three years prior to the year in which it passes
19 the [[open/closed]]SCHOOL CAPACITY test.

20 (5) *Wait on processing.* Any project not passing the test for allocations and the
21 [[open/closed]]SCHOOL CAPACITY test shall complete the initial plan stage, but shall not
22 proceed further through the subdivision or site development plan process until housing
23 unit allocations are granted and the [[open/closed]]SCHOOL CAPACITY test is passed. Once
24 allocations are granted and the [[open/closed]]SCHOOL CAPACITY test is passed, the
25 project shall be permitted to proceed with processing three years prior to the year in which
26 it passes the [[open/closed]]SCHOOL CAPACITY test.

27 (6) *Extension of milestone dates.* The Director of Planning and Zoning shall extend the next
28 milestone for projects failing the allocations test or [[open/closed]]SCHOOL CAPACITY test
29 to correspond to the delay in processing of the project. The Department of Planning and
30 Zoning shall notify the applicant, in writing, of the next milestone prior to the starting
31 date of the milestone.

1 (7) *WAITING PERIOD.*

2 (I) IF A PROJECT OR PHASE OF A PROJECT WAS NEVER ON THE LIST OF APPLICATIONS WAITING
3 FOR HOUSING UNIT ALLOCATIONS AND HAS RECEIVED HOUSING UNIT ALLOCATIONS,
4 THEN DEVELOPMENT MAY PROCEED AS FOLLOWS:

5 A. IF THE PROJECT OR PHASE OF THE PROJECT PASSES THE SCHOOL CAPACITY TEST IN
6 ANY YEAR BETWEEN AND INCLUSIVE OF THE FIRST CONSECUTIVE RETEST AND THE
7 FOURTH CONSECUTIVE RETEST, THEN THE PROJECT OR PHASE OF THE PROJECT MAY
8 PROCEED.

9 B. IF A PROJECT OR PHASE OF A PROJECT FAILS THE SCHOOL CAPACITY TEST:

10 I. FOR EACH OF THE NEXT FOUR CONSECUTIVE YEARS, THE PROJECT OR PHASE OF
11 THE PROJECT SHALL BE RETESTED EACH TIME THE COUNTY COUNCIL ADOPTS
12 NEW ANNUAL HOUSING UNIT ALLOCATIONS AND SCHOOL CAPACITY CHARTS;
13 AND

14 II. IN THE FOURTH RETESTING YEAR, THE PROJECT SHALL BE DEEMED TO HAVE
15 PASSED THE SCHOOL CAPACITY TEST.

16 (II) IF A PROJECT OR PHASE OF A PROJECT IS ON THE LIST OF APPLICATIONS WAITING FOR
17 HOUSING UNIT ALLOCATIONS AND RECEIVES HOUSING UNIT ALLOCATIONS WITHIN FIVE
18 YEARS, THEN SUBPARAGRAPH (I) OF PARAGRAPH (7) OF THIS SUBSECTION APPLIES.
19 HOWEVER, IN NO CASE SHALL A PROJECT OR PHASE OF A PROJECT BE ON HOLD MORE
20 THAN FIVE YEARS TOTAL INCLUDING THE TIME THE PROJECT OR PHASE OF THE PROJECT
21 WAS ON THE LIST OF APPLICATIONS WAITING FOR HOUSING UNIT ALLOCATIONS.

22 (III) IF A PROJECT OR PHASE OF A PROJECT IS ON THE ALLOCATION WAITING LIST AND
23 RECEIVES ALLOCATIONS AFTER FIVE YEARS OF BEING ON THE LIST, THEN THE PROJECT OR
24 PHASE OF A PROJECT DOES NOT HAVE TO TAKE THE SCHOOL CAPACITY TEST.

25
26 **Section 16.1107. Exemptions.**

27 (b) *Residential Projects:*

28 (8) *PARTIALLY EXEMPT RESIDENTIAL SUBDIVISION PLANS.* EXCEPT IN DOWNTOWN COLUMBIA,
29 MODERATE INCOME HOUSING UNITS DO NOT REQUIRE HOUSING UNIT ALLOCATIONS.
30 HOWEVER, PLANS WITH MODERATE INCOME HOUSING UNITS ARE REQUIRED TO PASS THE
31 TEST FOR ADEQUATE ROAD FACILITIES AND ADEQUATE PUBLIC SCHOOLS AS A CONDITION

1 OF APPROVAL. THE NUMBER OF MODERATE INCOME HOUSING UNITS IN EACH PLAN THAT
2 DO NOT REQUIRE HOUSING UNIT ALLOCATIONS SUBJECT TO THIS EXEMPTION SHALL NOT
3 EXCEED THE NUMBER OF MODERATE INCOME HOUSING UNITS AS REQUIRED IN THE
4 HOWARD COUNTY ZONING REGULATIONS.
5

6 **Section 16.1110. Definitions.**

7 (a) *Affordable housing unit* means a moderate or middle income housing unit as defined in the
8 Howard County Zoning Regulations.

9 (a-1) *Available housing unit allocations* are the number of housing unit allocations that the
10 Department of Planning and Zoning may grant in any year, based on the housing unit allocation
11 chart adopted by the County Council less housing unit allocations already granted for that year.

12 (b) *Background traffic growth* is the traffic, other than traffic existing at the time of application,
13 which will be generated by:

14 (1) Regional pass-through users; and

15 (2) Projects which are not subject to the test for adequate road facilities.

16 (c) *Bulk parcel—Residential* means a residential parcel recorded for the purpose of development
17 of apartments, single-family attached, single-family detached or mobile home units on a single lot
18 where tentative housing unit allocations have been granted.

19 (d) *Capacity* means when used in relation to road facilities, capacity means the total number of
20 vehicles that can be accommodated by a road facility during a specified time period under
21 prevailing roadway operating conditions.

22 (e) *Comprehensive project* means a project in the following zoning districts:

23 (1) New Town (NT)

24 (2) Planned Golf Course Community (PGCC)

25 (3) Mixed Use (MXD)

26 (4) Residential: Apartments (R-A-15)

27 (f) *Constrained road facility* means in the planned service area for water and sewerage, a
28 constrained road facility means the intersection of a major collector or higher classified road with
29 a major collector or higher classified road which has historic or environmental value which would
30 be adversely affected by certain road improvements.
31

1 In the no-planned service area for water and sewerage, a constrained road facility means the
2 intersection of a minor collector or higher classified road with a minor collector or higher classified
3 road which has historic or environmental value which would be adversely affected by certain road
4 improvements.

5
6 The County Council, by resolution, declares a road facility constrained and identifies the feature(s)
7 which form the basis for its decision to declare the road facility constrained.

8 (g) *Conventional project* means a project other than a comprehensive project.

9 (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section
10 103.A.41 of the Howard County Zoning Regulations.

11 (i) *Exempt governmental facility* means:

12 (1) A facility to be owned or operated by the Federal Government, State Government, Howard
13 County Public Schools, or any agency thereof;

14 (2) A facility owned by Howard County or any agency thereof where essential County
15 Government services are provided, [[including]] LIMITED TO police services, fire
16 prevention and suppression services, emergency medical services, highway maintenance,
17 detention facilities, water treatment and supply, sewage disposal and treatment and solid
18 waste disposal.

19 (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or
20 series of drawings, at an appropriate scale, and related text covering all or a portion of Downtown
21 Columbia that proposes development pursuant to section 125.E of the zoning regulations.

22 (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:

23 (1) The floor area is calculated by measuring the exterior faces of the walls of the structure
24 minus any area within the structure devoted to parking, driveways, atria, enclosed malls
25 and similar areas; and

26 (2) The lot area is calculated including any adjoining lots used for required parking for the
27 structure.

28 (l) *General plan target; general plan residential growth target* means for the purposes of this
29 subtitle, the general plan target and general plan residential growth target mean the housing unit
30 projections established in the general plan for each planning area including the senior east set aside,
31 and in addition 250 housing units per year for Route 1 revitalization.

1 (m) *Governmental action* means the action or inaction of a governmental agency in relation to a
2 timely filed action by a developer. For the purposes of this subtitle, governmental agency means
3 an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps
4 of Engineers, the Maryland Department of the Environment, the Zoning Board, and the Board of
5 Appeals.

6 (n) *Housing unit allocation or allocation* means an approval to build a housing unit.

7 (1) *Tentative housing unit allocation or tentative allocation* means the temporary approval,
8 granted during the subdivision plan process, to build a housing unit in a project which
9 requires housing unit allocations as a condition of project approval.

10 (2) *Permanent housing unit allocation or permanent allocation* means a permanent approval,
11 granted at recordation of a subdivision or at site development plan approval, to build a
12 housing unit in a project which requires housing unit allocations as a condition of project
13 approval.

14 (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit
15 allocations available to be granted in the County each year for a ten-year period. The chart divides
16 the available housing unit allocations into geographic areas and may provide for green
17 neighborhood and Downtown Columbia units. In a given year, no more than 35 percent of the
18 allocations available in the growth and revitalization region may be granted to projects in a
19 particular planning area, as established by PlanHoward 2030, Map 6-2 "Designated Place Types".

20 The number of housing unit allocations on the chart shall be as follows:

21 (1) In the first year after the effective date of this subtitle the number of housing unit allocations
22 on the chart for that year and each of the next two years shall equal the general plan annual
23 target for residential completions for those years.

24 (2) In the second year after the effective date of this subtitle, the number of housing unit
25 allocations on the chart for that year and for each of the next two years, based on the rolling
26 average, shall be the general plan target for residential completions for the year in question
27 minus one-third of the difference between:

28 (i) The number of housing unit allocations granted during the prior year plus the number
29 of housing units in projects approved during the prior year which were exempt from
30 the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this
31 subtitle; and

1 (ii) The prior year's general plan target.

2 (3) In the third and later years after the effective date of this subtitle, the number of housing
3 unit allocations on the chart for the current year and for each of the next two years, based
4 on the rolling average, shall be the general plan target for residential completions for the
5 year in question minus one-third of the difference between:

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

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

11 [[(4) In order to provide flexibility for development in areas designated in the general plan as
12 established communities or growth and revitalization areas, any unused annual allocations
13 for these areas may be combined and redistributed, using the rolling average, into a single
14 allocation category that may be used by development projects in either geographic area.]]

15 (p) *Howard County Design Manual* means Chapter 4 of Volume III (Roads and Bridges) of the
16 Howard County Design Manual which specifies requirements for adequate transportation
17 facilities.

18 (q) *Impact area*:

19 (1) In planned service area for public water and sewer. In that portion of the County in the
20 planned service area for public water and sewer, excluding Downtown Columbia, an
21 impact area means an area up to one and one-half road miles in all directions from the
22 entrance to the project on an existing County or State road or a planned roadway or
23 intersection identified in the capital budget or capital program, but not beyond the
24 intersection of a major collector or higher classified road with a major collector or higher
25 classified road. For Downtown Columbia the impact area shall be determined in
26 accordance with the Howard County Design Manual.

27 (2) In no-planned service area for public water and sewer. In that portion of the County in the
28 no planned service area for public water and sewer, an impact area means an area up to two
29 road miles in all directions from the entrance to a project on an existing County or State
30 road or a planned roadway or intersection identified in the capital budget or capital

1 program, but not beyond the intersection of a minor collector or higher classified road with
2 a minor collector or higher classified road.

3 (r) *Initial plan stage*. An initial plan stage means either (i) a sketch plan or preliminary equivalent
4 sketch plan under the Subdivision and Land Development Regulations; (ii) a final development
5 plan proposing downtown revitalization under the zoning regulations; or (iii) a site development
6 plan if subdivision is not required.

7 (s) *Major collector or major collector highway* means a road classified as a major collector
8 highway on the Howard County general plan, except that in determining the impact area for site
9 development plans, major collector also means a road, not classified as a major collector highway
10 on the Howard County general plan, but constructed to the physical specifications set forth in the
11 design manual for construction of a road so classified.

12 (t) *Major facilities agreement* means an agreement between the County, the State, if appropriate,
13 and the developer of a project incorporating the developer's approved mitigation plan and covering
14 the developer's financial obligations for mitigation.

15 (u) *Milestone* means the date, unless delayed by governmental action, by which a developer must
16 submit the next plan stage of a subdivision to the Department of Planning and Zoning for approval.

17 (v) *Minimum level of service for Howard County road facilities, excluding Downtown Columbia*
18 means level of service D. minimum level of service of a State road facility means level of service
19 E. for Downtown Columbia, the intersection standard is established in the Howard County Design
20 Manual.

21 (w) *Minor collector or minor collector highway* means a road classified as a minor collector
22 highway on the Howard County general plan.

23 (X) *MINOR SUBDIVISION* MEANS THE DIVISION OF A RESIDENTIAL OR AGRICULTURAL PARCEL THAT
24 HAS NOT BEEN PART OF A PREVIOUSLY RECORDED SUBDIVISION, INTO FOUR OR FEWER RESIDENTIAL
25 LOTS (INCLUDING BUILDABLE PRESERVATION PARCELS BUT EXCLUDING OPEN SPACE AND
26 NONBUILDABLE PRESERVATION PARCELS), EITHER ALL AT ONE TIME OR LOT BY LOT.

27 (y) *Open*:

28 (1) School region—Open means that the projected enrollment of a school region is below 115
29 percent of the program capacity of the elementary schools within the region.

30 (2) Elementary school—Open means that the projected enrollment of the elementary school
31 is below 115 percent of the program capacity of the school.

- 1 (3) Middle school—Open means that the projected enrollment of the middle school is below
2 115 percent of the program capacity of the school.
- 3 *Open/closed chart* means a chart indicating which elementary school regions and which
4 elementary and middle schools are open to new residential development and which are closed
5 to new residential development for the each of the following ten years.
- 6 *Open/closed test* means a test to determine whether the elementary school region and
7 elementary school and middle school serving a proposed project are open to new residential
8 development in the scheduled completion year of the project or the phases of the project.]]
- 9 *Phased project* means a project utilizing phasing.
- 10 *Phasing* means the sequential development of portions of a subdivision pursuant to a
11 sketch plan which includes a schedule for submission of preliminary and final plan applications
12 for the various phases of the project and a schedule for completion of these phases.
- 13 *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary
14 plan, and final plan.
- 15 *Planning region* means a geographic area of the County identified in the general plan
16 that is used for forecasting housing growth.
- 17 *Program capacity* means the capacity, as defined by the Howard County Board of
18 Education, for grades kindergarten through grade 8. Program capacity does not include special
19 education and relocatable capacity.
- 20 *Road facilities*:
- 21 (1) In planned service area for public water and sewer. In that portion of the County in the
22 planned service area for public water and sewer, road facilities means at grade
23 intersections of major collectors or higher classified roads which are beyond the
24 boundaries of the proposed project.
- 25 (2) In no planned service area for public water and sewer. In that portion of the County in the
26 no planned service area for public water and sewer, road facilities means at grade
27 intersections of minor collectors or higher classified roads which are beyond the
28 boundaries of the proposed project.
- 29 (3) Road facilities does not include road improvements which a developer is required to
30 provide pursuant to the provisions of Section 16.119, "Highways, Streets, and Roads," of
31 the subdivision regulations.

1 ([[ah]]AF) *Rolling average* means to recalculate the number of available housing unit allocations
2 for a given year in order to maintain and achieve the general plan residential growth targets.

3 ([[ai]]AG) *Scheduled completion year*:

4 (1) *Road facilities*:

5 (i) *Nonresidential projects* means when used in relation to road facilities serving
6 nonresidential projects, "scheduled completion year" means the year as approved on
7 the subdivision or site development plan, for scheduled completion of the project or
8 phases of the project.

9 (ii) *Residential projects*:

10 a. When used in relation to road facilities serving unphased residential projects,
11 "scheduled completion year" means the third year following the year the
12 application is submitted.

13 b. When used in relation to road facilities serving phased conventional residential
14 projects, "scheduled completion year" of the initial phase of the project means
15 the third year following the year the application is submitted. The scheduled
16 completion year of subsequent phases of the project are the years indicated for
17 scheduled completion of the phases of the project as approved on the subdivision
18 or site development plan.

19 c. When used in relation to road facilities serving phased comprehensive
20 residential projects, "scheduled completion year" of the phases of the project
21 means the years indicated for scheduled completion of the phases of the project
22 as approved on the subdivision or site development plan.

23 (2) *Schools*:

24 (i) When used in relation to schools, "scheduled completion year" of an unphased
25 project means the third year following approval of the project for adequate school
26 facilities.

27 (ii) When used in relation to schools, "scheduled completion year" of the initial phase of
28 a phased conventional project means the third year following approval of the project
29 for adequate school facilities.

1 (iii) When used in relation to schools, "scheduled completion year" of a phase of a phased
2 conventional project beyond the initial phase means the year for completion of the
3 phase, as shown in the application for sketch plan approval of the project.

4 (iv) When used in relation to schools, "scheduled completion year" of a phase of a
5 comprehensive project, means the year, at least three years following the year the
6 sketch plan application is submitted, for completion of the phase, as shown in the
7 application for sketch plan approval of the project.

8 (AH) *SCHOOL CAPACITY CHART* MEANS A CHART INDICATING WHICH ELEMENTARY SCHOOL REGIONS
9 AND WHICH ELEMENTARY SCHOOLS AND MIDDLE SCHOOLS ARE OPEN TO NEW RESIDENTIAL
10 DEVELOPMENT AND WHICH ARE CONSTRAINED TO NEW RESIDENTIAL DEVELOPMENT FOR EACH OF
11 THE FOLLOWING TEN YEARS.

12 (AI) *SCHOOL CAPACITY TEST* MEANS A TEST TO DETERMINE WHETHER THE ELEMENTARY SCHOOL
13 REGION AND ELEMENTARY SCHOOL AND MIDDLE SCHOOL SERVING A PROPOSED PROJECT ARE OPEN
14 TO NEW RESIDENTIAL DEVELOPMENT IN THE SCHEDULED COMPLETION YEAR OF THE PROJECT OR THE
15 PHASES OF THE PROJECT.

16 ([[aj]]AJ) *School region* means a geographic area, determined by the Howard County Board of
17 Education, containing a group of contiguous elementary school service areas.

18 ([[ak]]AK) *Unphased project* means a project which does not utilize phasing.

19
20 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,***
21 ***that this Act shall become effective 61 days after its enactment.***