

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 1

### Bill No. 1-2018

Introduced by: Calvin Ball, Jennifer Terrasa, and Jon Weinstein

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.

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Introduced and read first time \_\_\_\_\_, 2018. 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 \_\_\_\_\_, 2018.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

This Bill was read the third time on \_\_\_\_\_, 2018 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 \_\_\_\_\_, 2018 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2018.

\_\_\_\_\_  
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       *Subsections (b)(1) and (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       *Subsections (b)(3) and (6)*

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:*

10           *a. Paragraphs (8) and (9) to subsection (b) of Section 16.1107 “Exemptions”; and*

11           *b. Section 16.1111. “Adequate water, sewer, stormwater, and solid waste*  
12           *facilities.” to Subtitle 11 “Adequate Public Facilities.*

13  
14            **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

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

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

17  
18            **Section 16.147. Final subdivision plan and final plat.**

19           (e) *[[Developer's Agreement]]DEVELOPER AGREEMENTS.* After final plan approval and signature  
20 approval of all construction drawings and prior to the submission of the original final plat, the  
21 developer shall post with the County all necessary monies and file a developer's agreement and if  
22 required, a major facilities agreement and/or a shared sewage disposal facility developer  
23 agreement. The developer's agreement(s) shall cover financial obligations with appropriate  
24 security guaranteeing installation of all required improvements, INCLUDING APFO  
25 IMPROVEMENTS, installation and warranty of a shared sewage disposal facility on a cluster  
26 subdivision in the RR or RC zoning district, and fulfillment of the protection and management  
27 requirements of the approved forest conservation plan. The agreement may provide that the  
28 developer may be partially released from the surety requirements of the agreement upon partial  
29 completion of the work in accordance with criteria established by the Department of Public  
30 Works. THE AGREEMENT SHALL PROVIDE WHEN EITHER THE ONSITE OR OFFSITE ROAD  
31 IMPROVEMENTS THAT ARE THE RESPONSIBILITY OF THE DEVELOPER TO BUILD ARE REQUIRED TO BE

1 STARTED IN THE SEQUENCE OF CONSTRUCTION. THE SEQUENCE OF CONSTRUCTION, AS SET FORTH  
2 IN THE APPROVED PLANS AND SPECIFICATIONS, SHALL BE INCORPORATED INTO THE  
3 AGREEMENT BY REFERENCE. FAILURE TO CONSTRUCT ROAD IMPROVEMENTS IN ACCORDANCE  
4 WITH THE DEVELOPER AGREEMENT, AND INCORPORATED APPROVED PLANS AND SPECIFICATIONS,  
5 MAY RESULT IN DEFAULT IN ACCORDANCE WITH THE AGREEMENT AND BUILDING PERMITS SHALL  
6 NOT BE ISSUED. The Director of the Department of Planning and Zoning may authorize  
7 submission of the original final plat if the developer agreement is not complete, but is in process  
8 and can be fully executed in a timely manner.

9  
10 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

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

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

13  
14 **Section 16.156. Procedures.**

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

29  
30 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

31 **Subtitle 11. Adequate Public Facilities.**

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

*(b) Background:*

(1) *Growth management process.* Underlying this subtitle is the need to provide a growth management process that will enable the County to provide adequate public roads, schools, and other facilities in a timely manner and achieve general plan growth objectives AND TO PROVIDE INFORMATION TO OTHER AGENCIES OF THE COUNTY AND STATE, AS WELL AS TO THE PUBLIC, SO THAT THEY CAN PLAN ACCORDINGLY. This process is designed TO PROVIDE PREDICTABILITY TO ALL PARTIES AND to direct growth to areas where adequate infrastructure exists or will exist.

(3) *Elements of the growth management process.* This subtitle is one of five interconnected elements that constitute the growth management process. Each element has a part to play in providing the predictability required for planning and implementing adequate public facilities.

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

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

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

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

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

6 A. WITHIN ONE YEAR OF THE ENACTMENT DATE OF THE GENERAL PLAN, AS  
7 REQUIRED BY SECTION 16.801 OF THIS CODE, AN ADEQUATE PUBLIC  
8 FACILITIES ACT REVIEW COMMITTEE SHALL BE CONVENED. THE  
9 REVIEW COMMITTEE SHALL MEET, CONDUCT AT LEAST TWO PUBLIC  
10 HEARINGS, AND, WITHIN ONE YEAR OF ITS FIRST MEETING, SUBMIT A  
11 REPORT WITH RECOMMENDATIONS ON THE ADEQUATE PUBLIC  
12 FACILITIES ACT TO THE COUNTY EXECUTIVE AND THE COUNTY  
13 COUNCIL. THE COMMITTEE SHALL BE STAFFED BY THE DEPARTMENT  
14 OF PLANNING AND ZONING.

15 B. FIVE YEARS AFTER THE REVIEW COMMITTEE HAS ISSUED ITS  
16 RECOMMENDATIONS, ANOTHER REVIEW COMMITTEE SHALL BE  
17 CONVENED TO EVALUATE THE IMPACT OF THE PREVIOUS  
18 RECOMMENDATIONS WHICH HAVE BEEN IMPLEMENTED AND MAKE ANY  
19 ADDITIONAL RECOMMENDATIONS.

20 C. EACH REVIEW COMMITTEE SHALL BE COMPRISED OF:  
21 1. TWO APPOINTEES FROM EACH MEMBER OF THE COUNTY COUNCIL;  
22 2. THREE APPOINTEES FROM THE COUNTY EXECUTIVE; AND  
23 3. ONE APPOINTEE FROM THE BOARD OF EDUCATION; AND  
24 4. ONE APPOINTEE FROM THE HOWARD COUNTY PUBLIC SCHOOL  
25 SYSTEM  
26 SUPERINTENDENT.

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

31

1 **Section 16.1101. Adequate transportation facilities.**

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

5 (1) Road facilities in existence as of the date the developer submits the application for  
6 approval of the project;

7 (2) New road facilities or improvements to existing road facilities for which sufficient funds  
8 have been included in the Howard County Capital Program or Extended Capital Program  
9 as defined in title 22 of the Howard County Code or the Maryland Consolidated  
10 Transportation Program so that the facilities will be substantially completed before or  
11 during the scheduled completion year of the project, unless the Director of Planning and  
12 Zoning, after consultation with the Director of Public Works, demonstrates that such  
13 facilities or improvements are not likely to be completed by that time.

14 (3) New road facilities or improvements to existing road facilities which:

15 (i) Have been included in developers' mitigation plans submitted for approval to the  
16 Department of Planning and Zoning before the project which is being tested; [[and]]

17 (ii) Which are scheduled to be substantially completed before or during the scheduled  
18 completion year of the proposed project[.]; AND

19 (iii) HAVE BEEN INCLUDED IN A DEVELOPER AGREEMENT WHICH SHALL INCLUDE THE  
20 INFORMATION REQUIRED BY SECTION 16.147(E) AND SECTION 16.156 (K) OF THIS  
21 CODE.

22 (4) The mitigation proposed by the developer.  
23

24 **Section 16.1102. Housing unit allocation concept; housing unit allocation chart.**

25 (b) *Housing Unit Allocation Chart:*

26 (3) *Preparation and adoption.* The Department of Planning and Zoning shall prepare and  
27 update the housing unit allocation chart for consideration and adoption by the County  
28 Council. Once each year, and more often if the Council determines that amendments are  
29 appropriate, the county council shall adopt the housing unit allocation chart by resolution,  
30 after a public hearing. Whenever the housing unit allocation chart is adopted or amended,



1 the [[open/closed]]SCHOOL CAPACITY chart shall be adopted or amended concurrently to  
2 be consistent.

3 (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 (VI) REDISTRIBUTION OF HOUSING UNIT ALLOCATIONS WITHIN AN APPROVED FINAL  
8 DEVELOPMENT PLAN IS PERMITTED WITHIN THE FIRST FOUR YEARS OF THE FINAL  
9 DEVELOPMENT PLAN PHASING WITHOUT BEING SUBJECT TO SECTION 16.1104(B)  
10 OR RETESTING FOR HOUSING UNIT ALLOCATIONS AND ADEQUATE SCHOOL  
11 FACILITIES PROVIDED:

- 12 A. THE TOTAL NUMBER OF HOUSING UNIT ALLOCATIONS APPROVED BY THE  
13 FINAL DEVELOPMENT PLAN IS NOT EXCEEDED;
- 14 B. MILESTONES ARE SATISFIED FOR ALL PLAN PROCESSING;
- 15 C. THE REDISTRIBUTION OF UNITS COMPLIES WITH THE DOWNTOWN  
16 REVITALIZATION PHASING PROGRESSION REQUIREMENTS; AND
- 17 D. ALL NECESSARY CEPPA REQUIREMENTS HAVE BEEN MET.

18 THE REDISTRIBUTION OF UNITS MAY BE SUBJECT TO RETESTING FOR ADEQUATE  
19 TRANSPORTATION FACILITIES IF THE DEPARTMENT OF PLANNING AND ZONING,  
20 IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS, FINDS IT  
21 APPROPRIATE TO RETEST BASED ON THE NUMBER OF UNITS BEING  
22 REDISTRIBUTED AND EXISTING CRITICAL LANE VOLUME.

23 AFTER THE FIRST FOUR YEARS OF THE FINAL DEVELOPMENT PLAN PHASING, ANY  
24 REDISTRIBUTION OF HOUSING UNIT ALLOCATIONS WILL REQUIRE REPHASING  
25 UNDER SECTION 16.1104.(B).

26 ([[vi]]VII) Allocations will become permanent upon the recordation of the approved final  
27 development plan, and will remain valid provided the developer continues to meet all required  
28 milestones.

29 **Section 16.1103. Adequate school facilities.**

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

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

7 (([ii])2) The elementary, [[and]] middle, AND HIGH schools which will serve the proposed  
8 project will be open for new residential development during the scheduled completion  
9 year of the project and any phase of a project.

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

11 (1) *Definition.* The [[open/closed]]SCHOOL CAPACITY chart is a chart indicating which  
12 elementary school regions and which elementary, [[schools and]] middle, AND HIGH  
13 schools are open for new residential development and which are [[closed]] CONSTRAINED  
14 each year for each of the following ten years[.], AND SHALL BE BASED ON THE DEFINITION  
15 OF PROGRAM CAPACITY DEFINED BY HCPSS POLICY.

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

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

26 The Department of Planning and Zoning shall receive the [open/closed]]SCHOOL  
27 CAPACITY chart, from the [[Department]]BOARD of Education, ACCOMPANIED  
28 BY A REPORT THAT CONTAINS THE FOLLOWING INFORMATION FOR EACH SCHOOL:

29 (I) STATE AND LOCAL CAPACITIES OF THE FACILITY;

30 (II) THE DATE OF THE LAST REDISTRICTING WHICH IMPACTED THE ATTENDANCE  
31 AREA OF THAT SCHOOL;

1 (III) FOR ANY PROJECTED INCREASE IN ENROLLMENT, AN INDICATION OF WHAT  
2 PORTIONS OF THE INCREASE ARE ATTRIBUTED TO SALES OR RENTAL  
3 TURNOVER OF EXISTING RESIDENTIAL UNITS, NEW DEVELOPMENT, AND  
4 OTHER FACTORS; AND

5 (IV) FOR ANY SCHOOL DESIGNATED AS OPEN ON THE SCHOOL CAPACITY CHART  
6 BASED ON A CAPITAL IMPROVEMENT PROJECT OR PROPOSED REDISTRICTING  
7 ASSOCIATED WITH A CAPITAL IMPROVEMENT PROJECT:

8 A. CURRENT AND FUTURE FUNDING ASSUMPTIONS FOR THE CAPITAL  
9 IMPROVEMENT PROJECT(S);

10 B. FUTURE REDISTRICTING ASSUMPTIONS ASSOCIATED WITH THE  
11 CAPITAL IMPROVEMENT PROJECT; AND

12 C. AN EXPLANATION OF ANY CAPACITY UTILIZATION CHANGES BASED ON (A) OR  
13 (B).

14 The [[open/closed]]SCHOOL CAPACITY chart shall be submitted to the County Council for  
15 adoption by resolution after a public hearing. Whenever the County Council adopts,  
16 amends, or updates the housing unit allocation chart, it shall concurrently adopt the  
17 [[open/closed]]SCHOOL CAPACITY chart.

18 (D) *JOINT SPECIAL WORK MEETING ON SCHOOLS NEARING CAPACITY.* UPON RECEIVING  
19 WRITTEN NOTIFICATION FROM THE HOWARD COUNTY PUBLIC SCHOOL SYSTEM THAT  
20 A SCHOOL OR SCHOOL REGION HAS REACHED 95% CAPACITY UTILIZATION AND IS  
21 PROJECTED TO EXCEED 110% CAPACITY UTILIZATION WITHIN FIVE YEARS AS WELL AS  
22 THE BOARD OF EDUCATION’S PROPOSED SOLUTION TO ADDRESS THE PROJECTED  
23 OVERCROWDING, THE COUNTY COUNCIL SHALL HOLD A JOINT SPECIAL WORK  
24 MEETING. THE COUNCIL SHALL INVITE THE COUNTY EXECUTIVE AND THE BOARD OF  
25 EDUCATION TO ATTEND THE MEETING AND PARTICIPATE IN A COLLABORATIVE  
26 WORKING DISCUSSION OF SCHOOL CAPACITY NEEDS AND THE BOARD’S PROPOSED  
27 SOLUTION. THE COUNCIL SHALL GIVE THE GENERAL PUBLIC THREE WEEKS’ NOTICE  
28 BEFORE THE MEETING TO ALLOW THE PUBLIC TO PROVIDE WRITTEN COMMENT.

29 “(E) SPECIAL AFFORDABLE HOUSING OPPORTUNITIES. TO BALANCE THE COUNTY’S  
30 POLICY GOALS TO PROVIDE ADEQUATE SCHOOL FACILITIES AND AFFORDABLE  
31 HOUSING IN ACCORDANCE WITH SECTION 7-101 OF THE LAND USE ARTICLE OF THE

1 ANNOTATED CODE OF MARYLAND AND THE COUNTY'S GENERAL PLAN, IF AN  
2 AFFORDABLE HOUSING PROJECT OR PHASE OF A PROJECT IS LOCATED IN THE  
3 ATTENDANCE AREA OF A SCHOOL THAT IS CLOSED FOR DEVELOPMENT DUE TO  
4 PROJECTED ENROLLMENT IN THE SCHOOL CAPACITY CHART, THE DIRECTOR OF THE  
5 DEPARTMENT OF PLANNING AND ZONING SHALL AUTHORIZE THE AFFORDABLE  
6 HOUSING PROJECT TO PROCEED SUBJECT TO ALL OTHER PROVISIONS OF THIS  
7 SUBTITLE, PROVIDED THAT:

8 (1) AT LEAST 40% OF THE UNITS SHALL BE AFFORDABLE TO HOUSEHOLDS  
9 EARNING 60% OR LESS OF THE METROPOLITAN STATISTICAL AREA MEDIAN  
10 INCOME;

11 (2) THE PROJECT OR PHASE OF A PROJECT IS LED BY OR IN PARTNERSHIP WITH A  
12 LOCAL NONPROFIT OR THE HOUSING COMMISSION;

13 (3) THE PROJECT OR PHASE OF A PROJECT IS SEEKING OR HAS RECEIVED AN  
14 ALLOCATION OF LOW-INCOME HOUSING TAX CREDITS OR OTHER STATE OR  
15 FEDERAL FINANCIAL ASSISTANCE FOR AFFORDABLE HOUSING;

16 (4) THE PROJECT OR PHASE OF A PROJECT HAS OBTAINED A LETTER OF SUPPORT  
17 FROM THE COUNTY EXECUTIVE; AND

18 (5) THE COUNTY COUNCIL AND COUNTY EXECUTIVE HAVE APPROVED EITHER  
19 A PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT FOR THE PROJECT OR  
20 A RESOLUTION AUTHORIZING THE PROJECT TO PROCEED. AS PART OF THE  
21 APPROVAL OF THE PILOT OR RESOLUTION, THE COUNCIL SHALL HOLD A  
22 PUBLIC HEARING AND CONSIDER:

23 (i) THE CAPACITY UTILIZATION AT THE SCHOOL OR SCHOOLS  
24 IMPACTED BY THE PROJECT AND AT ADJACENT SCHOOLS,  
25 INCLUDING LIMITING THE POTENTIAL IMPACT ON ANY  
26 ELEMENTARY OR MIDDLE SCHOOL WITH A CAPACITY  
27 UTILIZATION RATE GREATER THAN 115% UNLESS AN ADJACENT  
28 SCHOOL WITH THE SAME GRADE LEVELS HAS A CAPACITY  
29 UTILIZATION RATE OF 100% OR LESS;

30 (ii) ESTIMATED STUDENT GENERATION FROM THE PROJECT;

1 (III) ANY POTENTIAL FOR THE BOARD OF EDUCATION TO ADD  
2 CAPACITY TO THE IMPACTED SCHOOL OR SCHOOLS THROUGH  
3 REDISTRICTING, FACILITY EXPANSION, OR OTHER PROGRAMS;  
4 AND

5 (IV) THE NEED FOR AFFORDABLE HOUSING IN THE COUNTY,  
6 INCLUDING FACTORS SUCH AS THE HOUSING COST BURDEN ON  
7 FAMILIES, THE AVAILABILITY OF HOUSING FOR INDIVIDUALS  
8 WITH DISABILITIES, AND THE EXTENT OF HOMELESSNESS  
9 AMONG FAMILIES AND SCHOOL CHILDREN.

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

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

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

17 (2) *Test for allocations:*

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

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

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

- 1           c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit  
2           allocation chart is adopted, the Department of Planning and Zoning shall test  
3           projects on the list of applications waiting for housing unit allocations. When  
4           housing unit allocations become available to serve a project, the Director of  
5           Planning and Zoning shall assign tentative allocations.
- 6           (ii) *Comprehensive projects.* Upon receipt of a complete initial plan stage application for  
7           approval of a comprehensive project, the Department of Planning and Zoning shall  
8           test the project for housing unit allocations.
- 9           a. *Allocations available.* If housing unit allocations are available for the scheduled  
10          completion year for unphased projects or for the scheduled completion year for  
11          the initial and future phases for phased comprehensive projects, the Director of  
12          Planning and Zoning shall assign tentative housing unit allocations.
- 13          b. *Allocations not available.* Subject to subsection 16.1104(b)(2), if housing unit  
14          allocations are not available for the scheduled completion year for unphased  
15          projects or for the scheduled completion year for the initial or future phases for  
16          phased comprehensive projects, the application shall be placed on the bottom of  
17          a list of applications waiting for housing unit allocations.
- 18          c. *Revised housing unit allocation chart adopted.* Whenever a revised housing unit  
19          allocation chart is adopted, the Director of Planning and Zoning shall test  
20          projects on the list of applications waiting for housing unit allocations. When  
21          housing unit allocations become available to serve a project, or phase of a  
22          project, the Director of Planning and Zoning shall assign tentative allocations.
- 23        (3) *[[Open/closed]]SCHOOL CAPACITY test.* Upon assignment of tentative housing unit  
24        allocations, the project shall be tested for adequate public schools.
- 25        (i) *Projects passing [[open/closed]]SCHOOL CAPACITY test.* Once a project has passed  
26        the *[[open/closed]]SCHOOL CAPACITY test*, no further approval for adequate public  
27        facilities for that project is required during the subdivision or site development plan  
28        approval process, except as provided in subsection 16.1105(d).
- 29        (ii) *Projects failing [[open/closed]]SCHOOL CAPACITY test.* PARAGRAPH (7) OF THIS  
30        SUBSECTION SHALL APPLY IF *[[If]]* a project fails one or more components of the  
31        *[[open/closed]]SCHOOL CAPACITY test* for the scheduled completion year for

1 unphased projects or for the scheduled completion year for the initial or future phases  
2 for phased projects[[, the project or phase of the project failing the open/closed test  
3 shall be retested for each of the next three consecutive years. If the project or phase  
4 of the project passes the test in any of those years it shall be permitted to proceed  
5 with processing three years prior to the year in which it passes the open/closed test.  
6 If the project or phase of the project fails the test for each of the next three  
7 consecutive years, it shall be deemed to have passed the open/closed test in the fourth  
8 year and shall be permitted to proceed with processing three years prior to the year  
9 it is deemed to have passed the test]].

10 [[(iii) *Projects failing open/closed test due to incorrect advisory comments.* If a project  
11 has failed the November 6, 2001 open/closed test due to reliance on incorrect  
12 Department of Planning and Zoning advisory comments regarding that project's  
13 elementary school region prior to a determination by the Board of Education, the  
14 project may be permitted to retake the schools test once retroactively to November  
15 6, 2001 based on an amended subdivision sketch plan without losing its allocations.]]

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

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

30 (6) *Extension of milestone dates.* The Director of Planning and Zoning shall extend the next  
31 milestone for projects failing the allocations test or [[open/closed]]SCHOOL CAPACITY test

1 to correspond to the delay in processing of the project. The Department of Planning and  
2 Zoning shall notify the applicant, in writing, of the next milestone prior to the starting  
3 date of the milestone.

4 (7) *WAITING PERIOD.*

5 (i) IF A PROJECT OR PHASE OF A PROJECT WAS NEVER ON THE LIST OF APPLICATIONS WAITING  
6 FOR HOUSING UNIT ALLOCATIONS AND HAS RECEIVED HOUSING UNIT ALLOCATIONS,  
7 THEN DEVELOPMENT MAY PROCEED AS FOLLOWS:

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

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

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

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

19 (ii) IF A PROJECT OR PHASE OF A PROJECT IS ON THE LIST OF APPLICATIONS WAITING  
20 FOR HOUSING UNIT ALLOCATIONS AND RECEIVES HOUSING UNIT ALLOCATIONS  
21 WITHIN SIX YEARS, THEN SUBPARAGRAPH (i) OF PARAGRAPH (7) OF THIS  
22 SUBSECTION APPLIES SUBJECT TO THE FOLLOWING MAXIMUM WAITING  
23 PERIODS:

24 A. IF A PROJECT OR PHASE OF A PROJECT HAS WAITED FOR THREE YEARS OR  
25 FEWER TO RECEIVE HOUSING ALLOCATIONS, THE COMBINED NUMBER OF  
26 YEARS THE PROJECT OR PHASE OF A PROJECT WAITS TO RECEIVE HOUSING  
27 UNIT ALLOCATIONS AND PASS THE SCHOOL CAPACITY TEST SHALL NOT  
28 EXCEED SIX YEARS.

29 B. IF A PROJECT OR PHASE OF A PROJECT HAS WAITED FOR FOUR OR FIVE YEARS TO  
30 RECEIVE HOUSING ALLOCATIONS, THE COMBINED NUMBER OF YEARS THE PROJECT OR



1 PHASE OF A PROJECT WAITS TO RECEIVE HOUSING UNIT ALLOCATIONS AND PASS THE  
2 SCHOOL CAPACITY TEST SHALL NOT EXCEED SEVEN YEARS.

3 (III) IF A PROJECT OR PHASE OF A PROJECT IS ON THE ALLOCATION WAITING LIST AND  
4 RECEIVES ALLOCATIONS AFTER SIX YEARS OR MORE OF BEING ON THE LIST, THEN THE  
5 PROJECT OR PHASE OF A PROJECT MAY PROCEED UPON PASSING A SCHOOL CAPACITY  
6 TEST. IF THE PROJECT FAILS THE SCHOOL CAPACITY TEST, THEN IT MUST WAIT ONE  
7 ADDITIONAL YEAR TO BE RETESTED. AFTER BEING RETESTED, THE PROJECT SHALL BE  
8 DEEMED TO HAVE PASSED THE SCHOOL CAPACITY TEST.

9  
10 **Section 16.1107. Exemptions.**

11 (b) *Residential Projects:*

12 (8) *PARTIALLY EXEMPT RESIDENTIAL SUBDIVISION PLANS.* EXCEPT IN DOWNTOWN COLUMBIA,  
13 MODERATE INCOME HOUSING UNITS DO NOT REQUIRE HOUSING UNIT ALLOCATIONS.  
14 HOWEVER, PLANS WITH MODERATE INCOME HOUSING UNITS ARE REQUIRED TO PASS THE  
15 TEST FOR ADEQUATE ROAD FACILITIES AND ADEQUATE PUBLIC SCHOOLS AS A CONDITION  
16 OF APPROVAL. THE NUMBER OF MODERATE INCOME HOUSING UNITS IN EACH PLAN THAT  
17 DO NOT REQUIRE HOUSING UNIT ALLOCATIONS SUBJECT TO THIS EXEMPTION SHALL NOT  
18 EXCEED THE NUMBER OF MODERATE INCOME HOUSING UNITS AS REQUIRED IN THE  
19 HOWARD COUNTY ZONING REGULATIONS.

20 (9) *PARTIALLY EXEMPT URBAN RENEWAL RESIDENTIAL SUBDIVISION OR SITE DEVELOPMENT PLANS;*  
21 *TEST FOR ADEQUATE SCHOOL FACILITIES.* RESIDENTIAL UNITS THAT ARE PART OF AN  
22 URBAN RENEWAL PROJECT, AS DESIGNATED BY TITLE 13, SUBTITLE 11 OF THIS CODE, ARE  
23 EXEMPT FROM THE REQUIREMENT TO PASS THE TEST FOR ADEQUATE SCHOOL FACILITIES AS  
24 A CONDITION OF SUBDIVISION OR SITE DEVELOPMENT PLAN APPROVAL.

25 **Section 16.1110. Definitions.**

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

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

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

- 3 (1) Regional pass-through users; and
- 4 (2) Projects which are not subject to the test for adequate road facilities.

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

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

11 (D-1) *CAPACITY UTILIZATION* MEANS THE RATIO OF A FACILITY’S ENROLLMENT TO ITS PROGRAM  
12 CAPACITY.

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

- 14 (1) New Town (NT)
- 15 (2) Planned Golf Course Community (PGCC)
- 16 (3) Mixed Use (MXD)
- 17 (4) Residential: Apartments (R-A-15)

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

22  
23 In the no-planned service area for water and sewerage, a constrained road facility means the  
24 intersection of a minor collector or higher classified road with a minor collector or higher classified  
25 road which has historic or environmental value which would be adversely affected by certain road  
26 improvements.

27  
28 The County Council, by resolution, declares a road facility constrained and identifies the feature(s)  
29 which form the basis for its decision to declare the road facility constrained.

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

- 1 (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section  
2 103.A.41 of the Howard County Zoning Regulations.
- 3 (i) *Exempt governmental facility* means:
- 4 (1) A facility to be owned or operated by the Federal Government, State Government, Howard  
5 County Public Schools, or any agency thereof;
- 6 (2) A facility owned by Howard County or any agency thereof where essential County  
7 Government services are provided, [[including]] LIMITED TO police services, fire  
8 prevention and suppression services, emergency medical services, highway maintenance,  
9 detention facilities, water treatment and supply, sewage disposal and treatment and solid  
10 waste disposal.
- 11 (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or  
12 series of drawings, at an appropriate scale, and related text covering all or a portion of Downtown  
13 Columbia that proposes development pursuant to section 125.E of the zoning regulations.
- 14 (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:
- 15 (1) The floor area is calculated by measuring the exterior faces of the walls of the structure  
16 minus any area within the structure devoted to parking, driveways, atria, enclosed malls  
17 and similar areas; and
- 18 (2) The lot area is calculated including any adjoining lots used for required parking for the  
19 structure.
- 20 (l) *General plan target; general plan residential growth target* means for the purposes of this  
21 subtitle, the general plan target and general plan residential growth target mean the housing unit  
22 projections established in the general plan for each planning area including the senior east set aside,  
23 and in addition 250 housing units per year for Route 1 revitalization.
- 24 (m) *Governmental action* means the action or inaction of a governmental agency in relation to a  
25 timely filed action by a developer. For the purposes of this subtitle, governmental agency means  
26 an agency of the Federal, State, or local government, including, but not limited to, the U.S. Corps  
27 of Engineers, the Maryland Department of the Environment, the Zoning Board, and the Board of  
28 Appeals.
- 29 (n) *Housing unit allocation or allocation* means an approval to build a housing unit.

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

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

8 (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit  
9 allocations available to be granted in the County each year for a ten-year period. The chart divides  
10 the available housing unit allocations into geographic areas and may provide for green  
11 neighborhood and Downtown Columbia units. In a given year, no more than 35 percent of the  
12 allocations available in the growth and revitalization region may be granted to projects in a  
13 particular planning area, as established by PlanHoward 2030, Map 6-2 "Designated Place Types".  
14 The number of housing unit 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 allocations  
16 on the chart for that year and each of the next two years shall equal the general plan annual  
17 target for residential completions for those years.

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

22 (i) The number of housing unit allocations granted during the prior year plus the number  
23 of housing units in projects approved during the prior year which were exempt from  
24 the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5) of this  
25 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 housing  
28 unit allocations on the chart for the current year and for each of the next two years, based  
29 on the rolling average, shall be the general plan target for residential completions for the  
30 year in question minus one-third of the difference between:

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

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

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

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

13 (q) *Impact area*:

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

22 (2) In no-planned service area for public water and sewer. In that portion of the County  
23 in the no planned service area for public water and sewer, an impact area means an area up  
24 to two road miles in all directions from the entrance to a project on an existing County or  
25 State road or a planned roadway or intersection identified in the capital budget or capital  
26 program, but not beyond the intersection of a minor collector or higher classified road with  
27 a minor collector or higher classified road.]]

28 (1) IMPACT AREA MEANS THE SET OF INTERSECTIONS TO BE STUDIED. IN ACCORDANCE  
29 WITH THE TABLE BELOW, THE PROJECTED TRIP GENERATION OF A PROJECT SHALL  
30 DETERMINE THE MINIMUM NUMBER OF INTERSECTIONS TO BE INCLUDED IN THE  
31 IMPACT AREA.

1

NET PEAK HOUR SITE TRIPS	MINIMUM NUMBER OF INTERSECTIONS IN EACH DIRECTION
5 – <del>50</del> <u>99</u>	1
<del>51</del> <u>100</u> – 399	2
400 – 799	3
800 – 1500	4
>1500	5

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(2) FOR PROJECTS IN THE PLANNED SERVICE AREA FOR PUBLIC WATER AND SEWER, EXCLUDING DOWNTOWN COLUMBIA, ~~AND FOR THE STANDARD IMPACT AREA IS~~ LIMITED TO INTERSECTIONS WITHIN ONE AND A HALF ROAD MILES IN ALL DIRECTIONS FROM EACH ENTRANCE TO THE PROJECT. FOR PROJECTS OUTSIDE THE PLANNED SERVICE AREA FOR PUBLIC WATER AND SEWER, THE STANDARD IMPACT AREA IS LIMITED TO INTERSECTIONS WITHIN TWO ROAD MILES IN ALL DIRECTIONS FROM EACH ENTRANCE TO THE PROJECT. INSIDE THE PLANNED SERVICE AREA FOR PUBLIC WATER AND SEWER, THE MINIMUM NUMBER OF INTERSECTIONS IN EACH DIRECTION REFERS TO ~~SIGNALIZED INTERSECTIONS~~ INTERSECTIONS OF A MAJOR COLLECTOR OR HIGHER CLASSIFIED ROAD WITH A MAJOR COLLECTOR OR HIGHER CLASSIFIED ROAD FOR THE STANDARD IMPACT AREA. OUTSIDE THE PLANNED SERVICE AREA FOR PUBLIC WATER AND SEWER, THE MINIMUM NUMBER OF INTERSECTIONS IN EACH DIRECTION REFERS TO INTERSECTIONS OF A MINOR COLLECTOR OR HIGHER CLASSIFIED ROAD WITH A MINOR COLLECTOR OR HIGHER CLASSIFIED ROAD FOR THE STANDARD IMPACT AREA. INSIDE OR OUTSIDE THE PLANNED SERVICE AREA FOR PUBLIC WATER AND SEWER, IF AN INTERSECTION AT AN ENTRANCE TO THE PROJECT IS INCLUDED IN THE IMPACT AREA, IT SHALL NOT COUNT TOWARD THE MINIMUM NUMBER OF INTERSECTIONS IN EACH DIRECTION.

1  
2 ~~(3) THE DEPARTMENT OF PLANNING AND ZONING MAY EXTEND THE DISTANCE OF THE~~  
3 ~~IMPACT AREA OR INCLUDE ADDITIONAL SIGNALIZED OR NON-SIGNALIZED~~  
4 ~~INTERSECTIONS IF, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS,~~  
5 ~~IT FINDS THAT SUCH AN EXPANSION IS APPROPRIATE BASED ON INTERSECTION~~  
6 ~~LOCATION, ANTICIPATED TRIP DISTRIBUTION, EXISTING LEVEL OF SERVICE, OR~~  
7 ~~KNOWN OPERATIONAL COMPLAINTS.~~

8 (3) IF A DEVELOPMENT IS PROJECTED TO GENERATE 100 PEAK HOUR TRIPS OR MORE FOR  
9 EITHER THE AM OR PM STUDY PERIOD, THE DEVELOPER SHALL REQUEST A TRAFFIC  
10 IMPACT AREA SCOPING MEETING PRIOR TO SUBMITTING THE PLAN FOR THE  
11 DEVELOPMENT. THE DEPARTMENT OF PLANNING AND ZONING SHALL DETERMINE  
12 WHETHER THE SCOPING MEETING WILL BE CONDUCTED BY EMAIL, PHONE, IN-PERSON, OR  
13 VIRTUAL MEETING, AND SHALL, TOGETHER WITH THE DEPARTMENT OF PUBLIC WORKS,  
14 CONDUCT THE MEETING WITH THE DEVELOPER TO DISCUSS IF THE DISTANCE OF THE  
15 STANDARD IMPACT AREA SHOULD BE EXTENDED OR IF ANY ADDITIONAL INTERSECTIONS  
16 SHOULD BE INCLUDED IN THE IMPACT AREA. THE DEPARTMENT OF PLANNING AND  
17 ZONING, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS, SHALL  
18 DETERMINE THE ADDITIONAL INTERSECTIONS TO BE STUDIED, IF ANY, BASED ON  
19 INTERSECTION LOCATION, ANTICIPATED TRIP DISTRIBUTION, EXISTING LEVEL OF  
20 SERVICE, OR KNOWN OPERATIONAL COMPLAINTS AND NOTIFY THE DEVELOPER IN  
21 WRITING OF THE INTERSECTIONS TO BE STUDIED WITHIN ONE WEEK FOLLOWING THE  
22 SCOPING MEETING. THE DEPARTMENT OF PLANNING AND ZONING MAY WAIVE THE  
23 REQUIREMENT TO STUDY A CERTAIN INTERSECTION IF THE DEPARTMENT OF PUBLIC  
24 WORKS HAS ON FILE A VALID TRAFFIC STUDY OF THAT INTERSECTION WHICH WAS  
25 COMPLETED WITHIN THE LAST YEAR. IF, DURING THE PLAN REVIEW PROCESS, THE PEAK  
26 HOUR TRIPS GENERATED BY THE PROPOSED DEVELOPMENT CHANGES BY 10% OR MORE  
27 OR BY 15 TRIPS OR MORE, WHICHEVER IS GREATER, A NEW SCOPING MEETING WILL BE  
28 REQUIRED AND THE DEPARTMENT OF PLANNING AND ZONING, IN CONSULTATION WITH  
29 THE DEPARTMENT OF PUBLIC WORKS, MAY REQUIRE ADDITIONAL INTERSECTIONS TO BE  
30 STUDIED BASED ON INTERSECTION LOCATION, ANTICIPATED TRIP DISTRIBUTION,  
31 EXISTING LEVEL OF SERVICE, OR KNOWN OPERATIONAL COMPLAINTS.

1 FOR DOWNTOWN COLUMBIA THE IMPACT AREA SHALL BE DETERMINED IN ACCORDANCE  
2 WITH THE HOWARD COUNTY DESIGN MANUAL.

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) FOR A SCHOOL CAPACITY CHART ADOPTED PRIOR TO JANUARY 1, 2019, OPEN HAS THE  
29 FOLLOWING MEANINGS:



1 (([1])i) School region—Open means that the projected [[enrollment]] CAPACITY UTILIZATION  
2 of a school region is below 115 percent [[of the program capacity]] of the elementary  
3 schools within the region.

4 (([2])ii) Elementary school—Open means that the projected [[enrollment]] CAPACITY  
5 UTILIZATION of the elementary school is below 115 percent [[of the program capacity]]  
6 of the school.

7 (([3])iii) Middle school—Open means that the projected [[enrollment]] CAPACITY  
8 UTILIZATION of the middle school is below 115 percent [[of the program capacity]] of the  
9 school.

10 (2) FOR A SCHOOL CAPACITY CHART ADOPTED AFTER JANUARY 1, 2019, OPEN HAS THE  
11 FOLLOWING MEANINGS:

12 (i) SCHOOL REGION—OPEN MEANS THAT THE PROJECTED ENROLLMENT OF A SCHOOL  
13 REGION IS BELOW 105 PERCENT OF THE PROGRAM CAPACITY OF THE ELEMENTARY  
14 SCHOOLS WITHIN THE REGION.

15 (ii) ELEMENTARY SCHOOL—OPEN MEANS THAT THE PROJECTED ENROLLMENT OF THE  
16 ELEMENTARY SCHOOL IS BELOW 105 PERCENT OF THE PROGRAM CAPACITY OF THE  
17 SCHOOL.

18 (iii) MIDDLE SCHOOL—OPEN MEANS THAT THE PROJECTED ENROLLMENT OF THE MIDDLE  
19 SCHOOL IS BELOW 110 PERCENT OF THE PROGRAM CAPACITY OF THE SCHOOL.

20 (iv) HIGH SCHOOL—OPEN MEANS THAT THE PROJECTED ENROLLMENT OF THE HIGH  
21 SCHOOL IS BELOW 115 PERCENT OF THE PROGRAM CAPACITY OF THE SCHOOL.

22 [[(z)]*Open/closed chart* means a chart indicating which elementary school regions and which  
23 elementary and middle schools are open to new residential development and which are closed  
24 to new residential development for the each of the following ten years.

25 (aa) *Open/closed test* means a test to determine whether the elementary school region and  
26 elementary school and middle school serving a proposed project are open to new residential  
27 development in the scheduled completion year of the project or the phases of the project.]]

28 (([ab])z) *Phased project* means a project utilizing phasing.

29 (([ac])AA) *Phasing* means the sequential development of portions of a subdivision pursuant to a  
30 sketch plan which includes a schedule for submission of preliminary and final plan applications  
31 for the various phases of the project and a schedule for completion of these phases.

1 ([[ad]]AB) *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary  
2 plan, and final plan.

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

5 ([[af]]AD) *Program capacity* means the capacity, as defined by the Howard County Board of  
6 Education POLICIES, for grades kindergarten through grade [[8]]12. Program capacity does not  
7 include PREKINDERGARTEN, special education and relocatable capacity.

8 ([[ag]]AE) *Road facilities*:

9 (1) In planned service area for public water and sewer. In that portion of the County in the  
10 planned service area for public water and sewer, road facilities means at grade  
11 intersections of major collectors or higher classified roads which are beyond the  
12 boundaries of the proposed project.

13 (2) In no planned service area for public water and sewer. In that portion of the County in the  
14 no planned service area for public water and sewer, road facilities means at grade  
15 intersections of minor collectors or higher classified roads which are beyond the  
16 boundaries of the proposed project.

17 (3) Road facilities does not include road improvements which a developer is required to  
18 provide pursuant to the provisions of Section 16.119, "Highways, Streets, and Roads," of  
19 the subdivision regulations.

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

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

23 (1) *Road facilities*:

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

28 (ii) *Residential projects*:

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

- 1           b. When used in relation to road facilities serving phased conventional residential  
2 projects, "scheduled completion year" of the initial phase of the project means  
3 the third year following the year the application is submitted. The scheduled  
4 completion year of subsequent phases of the project are the years indicated for  
5 scheduled completion of the phases of the project as approved on the subdivision  
6 or site development plan.
- 7           c. When used in relation to road facilities serving phased comprehensive  
8 residential projects, "scheduled completion year" of the phases of the project  
9 means the years indicated for scheduled completion of the phases of the project  
10 as approved on the subdivision or site development plan.

11       (2) *Schools:*

- 12           (i) When used in relation to schools, "scheduled completion year" of an unphased  
13 project means the third year following approval of the project for adequate school  
14 facilities.
- 15           (ii) When used in relation to schools, "scheduled completion year" of the initial phase of  
16 a phased conventional project means the third year following approval of the project  
17 for adequate school facilities.
- 18           (iii) When used in relation to schools, "scheduled completion year" of a phase of a phased  
19 conventional project beyond the initial phase means the year for completion of the  
20 phase, as shown in the application for sketch plan approval of the project.
- 21           (iv) When used in relation to schools, "scheduled completion year" of a phase of a  
22 comprehensive project, means the year, at least three years following the year the  
23 sketch plan application is submitted, for completion of the phase, as shown in the  
24 application for sketch plan approval of the project.

25       (AH) *SCHOOL CAPACITY CHART* MEANS A CHART INDICATING WHICH ELEMENTARY SCHOOL REGIONS  
26 AND WHICH ELEMENTARY, MIDDLE, AND HIGH SCHOOLS ARE OPEN TO NEW RESIDENTIAL  
27 DEVELOPMENT AND WHICH ARE CONSTRAINED TO NEW RESIDENTIAL DEVELOPMENT FOR EACH OF  
28 THE FOLLOWING TEN YEARS.

29       (AI) *SCHOOL CAPACITY TEST* MEANS A TEST TO DETERMINE WHETHER THE ELEMENTARY SCHOOL  
30 REGION AND ELEMENTARY, MIDDLE, AND HIGH SCHOOL SERVING A PROPOSED PROJECT ARE OPEN TO

1 NEW RESIDENTIAL DEVELOPMENT IN THE SCHEDULED COMPLETION YEAR OF THE PROJECT OR THE  
2 PHASES OF THE PROJECT.

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

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

6

7 **SECTION 16.1111. – ADEQUATE WATER, SEWER, STORMWATER, AND SOLID WASTE FACILITIES.**

8 NO DEVELOPMENT SHALL BE APPROVED UNTIL PLANS ARE REVIEWED BY THE DEPARTMENT OF  
9 PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS TO ENSURE THAT THE  
10 DEVELOPMENT WILL BE SERVED BY ADEQUATE WATER, SEWER, STORMWATER, AND SOLID WASTE  
11 FACILITIES IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS INCLUDING, BUT NOT  
12 LIMITED TO, THE FOLLOWING PROVISIONS:

13 (A) *WATER AND SEWER.* WATER AND SEWER FACILITIES SHALL BE CONSIDERED ADEQUATE IF  
14 THE APPROVED SUBDIVISION PLANS AND SITE DEVELOPMENT PLANS COMPLY WITH ALL  
15 APPLICABLE REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THE STANDARDS  
16 ESTABLISHED IN THE FOLLOWING CODE PROVISIONS FOR WATER AND SEWER SERVICES:

17 (1) SECTION 16.131. - SEWAGE DISPOSAL AND WATER SUPPLY.

18 (2) SECTION 18.100A. - CAPITAL IMPROVEMENT MASTER PLAN (C.I.M.P.) FOR WATER  
19 AND SEWERAGE.

20 (3) SECTION 18.122B. - ALLOCATION OF WATER AND WASTEWATER CAPACITY.

21 (B) *STORMWATER.* STORMWATER FACILITIES SHALL BE CONSIDERED ADEQUATE IF APPROVED  
22 SUBDIVISION PLANS AND SITE DEVELOPMENT PLANS COMPLY WITH ALL APPLICABLE  
23 REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THE STANDARDS ESTABLISHED IN  
24 SECTION 16.133 (“STORM DRAINAGE”) AND TITLE 18 (“PUBLIC WORKS”), SUBTITLES 5  
25 (“STORM DRAINAGE SYSTEMS”) AND 9 (“STORMWATER MANAGEMENT”) OF THE COUNTY  
26 CODE.

27 (C) *SOLID WASTE.* SOLID WASTE FACILITIES SHALL BE CONSIDERED ADEQUATE IF APPROVED  
28 SUBDIVISION PLANS AND SITE DEVELOPMENT PLANS COMPLY WITH ALL APPLICABLE  
29 REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THE CAPITAL IMPROVEMENT MASTER  
30 PLAN FOR SOLID WASTE AS DEFINED IN SECTION 18.600A OF THE COUNTY CODE.

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