

Introduced October 5, 2020  
Public Hearing October 19, 2020  
Council Action November 2, 2020  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. **14**

**Bill No. 56 -2020**

Introduced by: Liz Walsh

**AN ACT** amending the Howard County Code to remove the Adequate Public Facilities Ordinance's exemption for Conditionally Exempt Residential Subdivision Plans; and generally relating to Adequate Public Facilities Ordinance Exemptions.

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Introduced and read first time October 5, 2020. Ordered posted and hearing scheduled.

By order *Diane Schwartz Jones*  
Diane Schwartz Jones, 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 October 19, 2020, 2020.

By order *Diane Schwartz Jones*  
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 2, 2020 and Passed , Passed with amendments , Failed .

By order *Diane Schwartz Jones*  
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2020

\_\_\_\_\_  
Calvin Ball, County Executive

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

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard  
2 County Code is amended as follows:  
3 *By amending:*  
4 Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"  
5 Subtitle 11. "Adequate Public Facilities"  
6 Section. 16.1107. "Exemptions."

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**HOWARD COUNTY CODE**

11 **Title 16 - Planning, Zoning and Subdivisions and Land Development Regulations**  
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13 **Subtitle 11. – Adequate Public Facilities**

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15 **Section. 16.1107. – Exemptions.**

16 (a) *Nonresidential Projects:*

17 (1) *Exempt nonresidential subdivision plans.* The following nonresidential subdivisions are  
18 exempt from the requirement to pass the test for adequate road facilities as a condition of  
19 subdivision approval:

20 (i) A nonresidential resubdivision (see: Subdivision regulations).

21 (ii) An exempt governmental facility.

22 (iii) A nonresidential final subdivision plan pending on the effective date of this  
23 subtitle, April 10, 1992, provided that the plan proceeds to recordation in accordance  
24 with the subdivision regulations.

25 (iv) A subdivision that does not generate additional traffic.

26 (2) *Exempt nonresidential site development plans:*

- 1 (i) A site development plan for an exempt government facility is exempt from the  
 2 requirement to pass the test for adequate road facilities as a condition of site  
 3 development plan approval.
- 4 (ii) A site development plan which does not generate additional traffic is exempt from  
 5 the requirement to pass the test for adequate road facilities as a condition of site  
 6 development plan approval.
- 7 (iii) If the project is on a parcel which was zoned nonresidential on the effective date  
 8 of this subtitle and has not previously passed the roads test during the subdivision  
 9 process, a nonresidential site development plan submitted within seven years after  
 10 the effective date of this subtitle, April 10, 1992 is exempt from the requirement to  
 11 pass the test for adequate road facilities as a condition of site development plan  
 12 approval. However, if the floor area ratio on the lot exceeds the following:

Industrial/manufacturing/warehousing	0.45
Office/research and development	0.35
Retail/service	0.25
New town/town center village	1.0

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14 The site development plan shall be required to pass the test for adequate road  
 15 facilities for the excess floor area.

- 16 (3) *Conditionally exempt nonresidential subdivision plans.* Nonresidential subdivision  
 17 plans are conditionally exempt from the requirement to pass the test for adequate road  
 18 facilities as a condition of plan approval, provided that the sketch plan was approved  
 19 before the effective date of this subtitle, April 10, 1992. This exemption is conditional  
 20 upon the project continuing to meet required milestones (see: Section 16.1106,  
 21 "Milestones").

1 (b) *Residential Projects:*

2 (1) *Exempt residential plans.* The following residential subdivisions and site development  
3 plans are exempt from the requirement to pass the test for adequate road facilities and the  
4 requirement to pass the tests for allocations and adequate public school facilities as a  
5 condition of approval:

6 (i) Parcel divisions (see: Subdivision regulations).

7 (ii) Subdivisions in agricultural preservation easements for dwellings of the owner or  
8 the owner's children or other dwelling lots permitted on agricultural preservation  
9 easements.

10 (iii) Residential resubdivisions (see: Subdivision regulations) which do not increase  
11 the number of housing units allowed.

12 (iv) Residential final subdivision plans pending on the effective date of this subtitle,  
13 provided that the plan proceeds to recordation in accordance with the subdivision  
14 regulations.

15 (v) Minor subdivision plans and resubdivisions, located in RC and RR zoning districts  
16 outside of the planned service area boundary for water and sewer, which create the  
17 potential for only one additional dwelling unit from a lot existing on April 10, 1992.

18 (vi) Minor subdivision plans and resubdivisions which create the potential of only one  
19 additional dwelling unit to be conveyed to an immediate family member or members  
20 from a lot existing on April 10, 1992 provided that the following conditions are met:

21 a. The property owner must have owned the property for a minimum of three years  
22 before requesting subdivision; and

23 b. The family member must be either a parent, child, or sibling. The term  
24 immediate family member does not include step-parents, step-children, or step-  
25 siblings; and

26 c. The property owner shall not seek further subdivision of the property or another  
27 family member exemption for a period of three years; and

1 d. The granting of this family member exemption shall prohibit the property owner  
2 from seeking a hardship exemption.

3 A maximum of three family member exemptions per year per planning area may be  
4 granted by the Department of Planning and Zoning. Subject to section 22.1000 of  
5 the County Code, the Department of Planning and Zoning shall annually prepare a  
6 home ownership report on this exemption for the Council.

7 (vii) Minor subdivision plans and resubdivisions which create the potential of only one  
8 additional dwelling unit from an adjoining lot existing before April 10, 1992, for  
9 property owners with economic hardships. Upon the property owner's written request  
10 to the Department of Planning and Zoning, the County Council may approve by  
11 resolution a hardship exemption. The property owner shall state in the request to the  
12 Department of Planning and Zoning the severe economic hardship that the property  
13 owner is sustaining and provide the following evidence, which shall be forwarded by  
14 the Department to the County Council with a recommendation concerning the  
15 exemption:

- 16 a. Verification of ownership of the property to be subdivided for at least three years  
17 before the submittal of the economic hardship exemption request; and
- 18 b. A recent financial statement that shows the property owner's complete assets  
19 and liabilities supported by an affidavit of the property owner; and
- 20 c. Other information regarding the severe economic hardship that the property  
21 owner is sustaining, including but not limited to information from lenders, lien  
22 holders, creditors, attorneys, tax collectors or other third parties who have  
23 knowledge as to the economic condition of the property owner; and
- 24 d. Any notice of foreclosure on the property; and
- 25 e. Any medical bills that are not covered by health insurance for a medical  
26 condition/treatment of the property owner or immediate family member of the  
27 property owner. For purposes of this section, the immediate family member shall

1 be either a spouse, parent, child, or sibling but shall not include step-parents,  
2 step-children or step-siblings; and

3 f. Any other evidence that the property owner has no other reasonable means of  
4 relieving that economic hardship.

5 The granting of this hardship exemption shall prohibit the property owner from  
6 seeking a family member exemption.

7 (2) *Partially exempt residential subdivision plans.* Minor subdivision plans are exempt from  
8 the requirement to pass the test for adequate road facilities as a condition of plan approval.  
9 However, minor subdivision plans are required to pass the tests for allocations and  
10 adequate public school facilities as a condition of subdivision approval.

11 (3) *Exempt residential site development plans.* Residential site development plans for  
12 single-family attached and detached housing on recorded lots that existed on April 10,  
13 1992 are exempt from the requirement to pass the test for adequate road facilities and the  
14 tests for allocations and adequate public school facilities as a condition of site  
15 development plan approval.

16 (4) *Partially exempt mobile home park site development plans:*

17 (i) Residential site development plans for mobile home parks are exempt from the  
18 requirement to pass the test for allocations to the extent that the mobile home park  
19 site development plan is replacing units from a mobile home park abandoned or  
20 permanently closed after January 1, 2000. If the number of units in a mobile home  
21 park site development plan exceeds the number of replacement units available, the  
22 number of units exceeding the available replacement units shall be tested for  
23 allocations in accordance with section 16.1104 of this subtitle. The Department of  
24 Planning and Zoning shall keep a record of the number of mobile home park units  
25 abandoned and replaced and shall reassign the replacement units to projects, at the  
26 time of site development plan approval, in the order of site plan approval dates.

27 (ii) Residential site development plans for mobile home parks to which replacement  
28 units have been reassigned in accordance with subsection (i) above are exempt from

1 the adequate public school facilities test for the number of replacement units  
2 reassigned if the site development plan for the mobile home park is located in the  
3 same elementary and middle school districts as the abandoned or permanently closed  
4 mobile home park from which the units were reassigned. If the number of units  
5 proposed on the site development plan exceeds the number of reassigned units  
6 available, or if the site development plan includes reassigned units from a different  
7 elementary and/or middle school district, the excess units receiving allocations as  
8 required in subsection (i) above, and the reassigned units from a different elementary  
9 and/or middle school district, as the case may be, shall be subject to the adequate  
10 public school facilities tests. If the proposed mobile home park is located in a  
11 different elementary and/or middle school district, the site development plan must  
12 pass the appropriate adequate public school facility test(s) for all units approved on  
13 the site development plan.

14 (5) *Partially exempt multifamily residential site development plans:*

15 (i) *Exemption from tests for adequate public schools.* Residential site development  
16 plans for multifamily projects which cannot generate children, such as age-restricted  
17 adult housing, are exempt from the requirement to pass the tests for adequate school  
18 facilities as a condition of site development plan approval. Except as provided in  
19 subparagraph (iii) of this paragraph, these plans are required to pass the test for  
20 allocations and for adequate road facilities as a condition of site development plan  
21 approval.

22 (ii) *Exemption from tests for allocations and adequate public schools.* Nursing and  
23 residential care facilities are exempt from the requirement to pass tests for allocations  
24 and for adequate public schools as a condition of site development plan approval.  
25 These plans are required to pass the adequate road facilities test as a condition of site  
26 development plan approval.

27 [(6) *Conditionally exempt residential subdivision plans.* Residential subdivision plans are  
28 conditionally exempt from the requirement to pass the test for adequate road facilities and  
29 the tests for allocations and for adequate school facilities as a condition of plan approval,

1 provided that the sketch plan was approved before the effective date of this subtitle, this  
2 exemption is conditional upon the project continuing to meet required milestones (see:  
3 Section 16.1106, "Milestones").]]

4 ~~(7)~~6) *Partially exempt residential redevelopment plans.* Residential redevelopment  
5 involving a subdivision plan or site development plan is exempt from the allocations.  
6 Adequate public schools, and roads tests to the extent that the redevelopment will not  
7 increase:

8 (i) The number of existing housing units on the site;

9 (ii) The number of housing units allowed under paragraph (3) of this subsection; or

10 (iii) If the redevelopment is of a mobile home park licensed under subtitle 5 of this  
11 title, the number of mobile home sites permitted under the license.

12 Existing units being replaced must have been occupied on a full-time basis for at least  
13 30 days in the year prior to submission of the subdivision or site development plan for  
14 redevelopment of the site. If the number of units on the redevelopment plan exceeds the  
15 number of existing units, the additional units shall pass the allocations, adequate public  
16 schools and roads tests as a condition of plan approval.

17 ~~(8)~~7) *Partially exempt residential subdivision plans.* Except in Downtown Columbia,  
18 moderate income housing units do not require housing unit allocations. However, plans  
19 with moderate income housing units are required to pass the test for adequate road  
20 facilities and adequate public schools as a condition of approval. The number of moderate  
21 income housing units in each plan that do not require housing unit allocations subject to  
22 this exemption shall not exceed the number of moderate income housing units as required  
23 in the Howard County Zoning Regulations.

24 ~~(9)~~8) *Partially exempt urban renewal residential subdivision or site development plans;*  
25 *Test for adequate school facilities.* Residential units that are part of an Urban Renewal  
26 project, as designated by title 13, subtitle 11 of this Code, are exempt from the  
27 requirement to pass the test for adequate school facilities as a condition of subdivision or  
28 site development plan approval.



1    **Section 2. Be It Further Enacted** by the County Council of Howard County, Maryland, that any  
2    conditionally exempt residential subdivision plans previously covered by Section 16.1107(b)(6)  
3    that has not received Site Development Plan approval prior to September 24, 2020 shall be  
4    subject to all Adequate Public Facilities testing provisions of Section 16.1100 of the Code.

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6    **Section 3. And Be It Further Enacted** by the County Council of Howard County,  
7    Maryland, that this Act shall become effective 61 days after its enactment.

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