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### **Sec. 16.1103. Adequate school facilities.**

- (a) *Requirement to Be Tested for Adequate Public School Facilities.* As a condition of subdivision or site development plan approval, all residential subdivisions and site development plans, except those listed in section 16.1107, "Exemptions," are required to pass the tests for adequate public school facilities.
- (b) *The Tests for Adequate Public Schools.* A proposed residential project will pass the tests for adequate public schools if the school capacity chart (see subsection (c), "School Capacity Chart," below) indicates that:
- (1) The elementary school region where the proposed project will be located will be open for new residential development during the scheduled completion year of the project and any phase of a project; and
  - (2) The elementary, middle, and high schools which will serve the proposed project will be open for new residential development during the scheduled completion year of the project and any phase of a project.
- (c) *School Capacity Chart Preparation and Adoption:*
- (1) *Definition.* The school capacity chart is a chart indicating which elementary school regions and which elementary, middle, and high schools are open for new residential development and which are constrained each year for each of the following ten years, and shall be based on the definition of program capacity defined by HCPSS policy.
  - (2) *Basis of chart.* The basis of the school capacity chart is the assumptions used by the Board of Education in predicting capacity utilization, such as school capacity, current enrollment, demographic and growth trends, and the housing unit allocation chart.
  - (3) *Preparation and adoption of school capacity chart.* The school capacity chart is designed to work in conjunction with the housing unit allocation chart in order to provide consistency and predictability in the planning process for schools. For that reason, the school capacity chart shall be revised for consistency concurrent with any amendments to the housing unit allocation chart.
- The Department of Planning and Zoning shall receive the school capacity chart, from the Board of Education, accompanied by a report that contains the following information for each school:
- (i) State and local capacities of the facility;
  - (ii) The date of the last redistricting which impacted the attendance area of that school;
  - (iii) For any projected increase in enrollment, an indication of what portions of the increase are attributed to sales or rental turnover of existing residential units, new development, and other factors; and
  - (iv) For any school designated as open on the school capacity chart based on a capital improvement project or proposed redistricting associated with a capital improvement project:
    - a. Current and future funding assumptions for the capital improvement project(s);
    - b. Future redistricting assumptions associated with the capital improvement project; and
    - c. An explanation of any capacity utilization changes based on (a) or (b).
- The school capacity chart shall be submitted to the County Council for adoption by resolution after a public hearing. Whenever the County Council adopts, amends, or updates the housing unit allocation chart, it shall concurrently adopt the school capacity chart.
- (d) *Joint Special Work Meeting on Schools Nearing Capacity.* Upon receiving written notification from the Howard County Public School System that a school or school region has reached 95 percent capacity

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utilization and is projected to exceed 110 percent capacity utilization within five years as well as the Board of Education's proposed solution to address the projected overcrowding, the County Council shall hold a joint special work meeting. The Council shall invite the County Executive and the Board of Education to attend the meeting and participate in a collaborative working discussion of school capacity needs and the Board's proposed solution. The Council shall give the general public three weeks' notice before the meeting to allow the public to provide written comment.

- (e) *Special Affordable Housing Opportunities.* To balance the County's policy goals to provide adequate school facilities and affordable housing in accordance with section 7-101 of the Land Use Article of the Annotated Code of Maryland and the County's General Plan, if an affordable housing project or phase of a project is located in the attendance area of a school that is closed for development due to projected enrollment in the school capacity chart, the Director of the Department of Planning and Zoning shall authorize the affordable housing project to proceed subject to all other provisions of this subtitle, provided that:
- (1) At least 40 percent of the units shall be affordable to households earning 60 percent or less of the metropolitan statistical area median income;
  - (2) The project or phase of a project is led by or in partnership with a local nonprofit or the Housing Commission;
  - (3) The project or phase of a project is seeking or has received an allocation of Low-Income Housing Tax Credits or other state or federal financial assistance for affordable housing;
  - (4) The project or phase of a project has obtained a letter of support from the County Executive; and
  - (5) The County Council and County Executive have approved either a Payment in Lieu of Taxes (PILOT) agreement for the project or a resolution authorizing the project to proceed. As part of the approval of the PILOT or resolution, the Council shall hold a public hearing and consider:
    - (i) The capacity utilization at the school or schools impacted by the project and at adjacent schools, including limiting the potential impact on any elementary or middle school with a capacity utilization rate greater than 115 percent unless an adjacent school with the same grade levels has a capacity utilization rate of 100 percent or less;
    - (ii) Estimated student generation from the project;
    - (iii) Any potential for the Board of Education to add capacity to the impacted school or schools through redistricting, facility expansion, or other programs; and
    - (iv) The need for affordable housing in the County, including factors such as the housing cost burden on families, the availability of housing for individuals with disabilities, and the extent of homelessness among families and school children.

(C.B. 7, 1992; C.B. 39, 1995; C.B. 50, 2000; C.B. 1, 2018, § 2)