

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

County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 1

Bill No. 9 -2022

Introduced by Deb Jung

AN ACT to alter a duty of the Department of Planning and Zoning related to the Adequate Public Facilities Ordinance; requiring certain developers to meet with the School System about school capacity solutions; and generally relating to the Adequate Public Facilities Ordinance.

Introduced and read first time _____, 2022. Ordered posted and hearing scheduled.

By order _____
Michelle R. Harrod, 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 _____, 2022.

By order _____
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2022 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2022 at ____ a.m./p.m.

By order _____
Michelle R. Harrod, Administrator

Approved by the County Executive _____, 2022

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
2 Howard 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 16.1103. Adequate school facilities.*

7

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

9 Subtitle 11. - Adequate Public Facilities

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11 Sec. 16.1103. Adequate school facilities.

12 (a) Requirement to Be Tested for Adequate Public School Facilities. As a condition of
13 subdivision or site development plan approval, all residential subdivisions and site development
14 plans, except those listed in section 16.1107, "Exemptions," are required to pass the tests for
15 adequate public school facilities.

16 (b) The Tests for Adequate Public Schools. A proposed residential project will pass the tests
17 for adequate public schools if the school capacity chart (see subsection (c), "School Capacity
18 Chart," below) indicates that:

19 (1) The elementary school region where the proposed project will be located
20 will be open for new residential development during the scheduled completion
21 year of the project and any phase of a project; and

22 (2) The elementary, middle, and high schools which will serve the proposed
23 project will be open for new residential development during the scheduled
24 completion year of the project and any phase of a project.

25 (c) School Capacity Chart Preparation and Adoption:

26 (1) Definition. The school capacity chart is a chart indicating which
27 elementary school regions and which elementary, middle, and high schools are
28 open for new residential development and which are constrained each year for
29 each of the following ten years, and shall be based on the definition of program
30 capacity defined by HCPSS policy.

31 (2) Basis of chart. The basis of the school capacity chart is the assumptions
32 used by the Board of Education in predicting capacity utilization, such as school

1 capacity, current enrollment, demographic and growth trends, and the housing
2 unit allocation chart.

3 (3) Preparation and adoption of school capacity chart. The school capacity
4 chart is designed to work in conjunction with the housing unit allocation chart in
5 order to provide consistency and predictability in the planning process for
6 schools. For that reason, the school capacity chart shall be revised for consistency
7 concurrent with any amendments to the housing unit allocation chart.

8 The Department of Planning and Zoning shall receive the school capacity chart
9 [[,]] from the Board of Education [[,]] accompanied by a report that contains the
10 following information for each school:

- 11 (i) State and local capacities of the facility;
- 12 (ii) The date of the last redistricting which impacted the attendance
13 area of that school;
- 14 (iii) For any projected increase in enrollment, an indication of what
15 portions of the increase are attributed to sales or rental turnover of existing
16 residential units, new development, and other factors; [[and]]
- 17 (iv) A LIST OF APPROVED OR IN PROCESS SUBDIVISION PLANS, INCLUDING
18 NAME OF DEVELOPMENT, LOCATION, AND PROPOSED UNITS, ASSIGNED TO
19 EACH SCHOOL BOUNDARY; AND
- 20 (v) For any school designated as open on the school capacity chart based
21 on a capital improvement project or proposed redistricting associated with
22 a capital improvement project:
 - 23 a. Current and future funding assumptions for the capital
24 improvement project(s);
 - 25 b. Future redistricting assumptions associated with the capital
26 improvement project; and
 - 27 c. An explanation of any capacity utilization changes based
28 on (a) or (b).

29 The school capacity chart shall be submitted to the County Council
30 for adoption by resolution after a public hearing. Whenever the
31 County Council adopts, amends, or updates the housing unit

1 allocation chart, it shall concurrently adopt the school capacity
2 chart.

3 (d) Joint Special Work Meeting on Schools Nearing Capacity. Upon receiving written
4 notification from the Howard County Public School System that a school or school
5 region has reached 95 percent capacity utilization and is projected to exceed 110 percent
6 capacity utilization within five years as well as the Board of Education's proposed
7 solution to address the projected overcrowding, the County Council shall hold a joint
8 special work meeting. The Council shall invite the County Executive and the Board of
9 Education to attend the meeting and participate in a collaborative working discussion of
10 school capacity needs and the Board's proposed solution. The Council shall give the
11 general public three weeks' notice before the meeting to allow the public to provide
12 written comment.

13 (e) Special Affordable Housing Opportunities. To balance the County's policy goals
14 to provide adequate school facilities and affordable housing in accordance with section 7-
15 101 of the Land Use Article of the Annotated Code of Maryland and the County's
16 General Plan, if an affordable housing project or phase of a project is located in the
17 attendance area of a school that is closed for development due to projected enrollment in
18 the school capacity chart, the Director of the Department of Planning and Zoning shall
19 authorize the affordable housing project to proceed subject to all other provisions of this
20 subtitle, provided that:

- 21 (1) At least 40 percent of the units shall be affordable to households earning
22 60 percent or less of the metropolitan statistical area median income;
- 23 (2) The project or phase of a project is led by or in partnership with a local
24 nonprofit or the Housing Commission;
- 25 (3) The project or phase of a project is seeking or has received an allocation of
26 Low-Income Housing Tax Credits or other state or federal financial assistance for
27 affordable housing;
- 28 (4) The project or phase of a project has obtained a letter of support from the
29 County Executive; [[and]]
- 30 (5) A REPRESENTATIVE FROM THE PROJECT OR PHASE OF A PROJECT HAS MET
31 WITH THE DESIGNEE OF THE SUPERINTENDENT OF THE SCHOOL SYSTEM AND

1 SECURED A REASSIGNMENT OR CAPACITY SOLUTION IN WRITING PRIOR TO THE
2 APPLICATION FOR STATE GRANTS AND CREDITS; AND

3 (6) The County Council and County Executive have approved either a
4 Payment in Lieu of Taxes (PILOT) agreement for the project or a resolution
5 authorizing the project to proceed. As part of the approval of the PILOT or
6 resolution, the Council shall hold a public hearing and consider:

7 (i) The capacity utilization at the school or schools impacted by the
8 project and at adjacent schools, AND THE SCHOOL REGION, including
9 limiting the potential impact on any elementary or middle school with a
10 capacity utilization rate greater than 115 percent unless an adjacent school
11 with the same grade levels has a capacity utilization rate of 100 percent or
12 less;

13 (ii) Estimated student generation from the project;

14 (iii) [[Any potential for the Board of Education to add capacity to the
15 impacted school or schools through redistricting, facility expansion, or
16 other programs]] THE SOLUTION IDENTIFIED IN ITEM (5) OF THIS
17 SUBSECTION; and

18 (iv) The need for affordable housing in the County, including factors
19 such as the housing cost burden on families, the availability of housing for
20 individuals with disabilities, and the extent of homelessness among
21 families and school children.

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24 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County,
25 *Maryland that notwithstanding 16.1103(e)(5) as added by Section 1 of this Act, for*
26 *projects that applied for State credits and grants before the effective date of this Act, the*
27 *Director of the Department of Planning and Zoning shall authorize the affordable*
28 *housing project to proceed if a representative from the project meets with a designee of*
29 *the Superintendent of the school system and secures a reassignment or capacity solution*
30 *in writing before construction begins.*

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

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