

Introduced 11.6.2023  
Public Hearing 11.20.2023  
Council Action 12.04.2023  
Executive Action 12.08.2023  
Effective Date 2.07.2024

## County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. ~~15~~ 13

### Bill No. 41-2023

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

AN ACT amending the Adequate Public Facilities Act in order to remove references to specific types of housing unit allocations; removing references to “geographic” targets as a basis for the housing unit allocation chart; and generally relating to the Adequate Public Facilities Act of Howard County.

Introduced and read first time Nov 6, 2023. Ordered posted and hearing scheduled.  
By order Michelle Harrod  
Michelle 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 Nov 20, 2023.  
By order Michelle Harrod  
Michelle Harrod, Administrator

This Bill was read the third time on Dec 4, 2023 and Passed , Passed with amendments , Failed .  
By order Michelle Harrod  
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6<sup>th</sup> day of Dec, 2023 at 6<sup>00</sup> a.m./p.m.  
By order Michelle Harrod  
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive 12/8, 2023  
Calvin Ball  
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           **WHEREAS**, *HoCo By Design*, when effective, will become the new General Plan for  
2 Howard County, supplanting *PlanHoward 2030*; and

3  
4           **WHEREAS**, *HoCo By Design* renders various provisions of the Adequate Public  
5 Facilities Act of Howard County that reference elements of *PlanHoward 2030* obsolete; and

6  
7           **WHEREAS**, Section 16.1102(b) of the Howard County Code requires the Department of  
8 Planning and Zoning to prepare and update a Housing Unit Allocation Chart that incorporates  
9 General Plan projections for the number of housing unit allocations available to be granted in the  
10 County each year; and

11  
12           **WHEREAS**, Sections 16.1102(b)(1) and 16.1110(o) of the Howard County Code each  
13 reference the following “geographic areas” or “Designated Place Types,” established in  
14 *PlanHoward 2030*, for purposes of distributing housing allocations in the Housing Unit  
15 Allocation Chart: Downtown Columbia; Growth and Revitalization; Established Communities;  
16 Green Neighborhood; and the Rural West; and

17  
18           **WHEREAS**, *HoCo By Design* eliminates the Green Neighborhood allocations and  
19 moves away from the “Designated Place Types” outlined in *PlanHoward 2030*, in favor of  
20 “Character Areas.”

21  
22 **NOW, THEREFORE,**

23  
24 ***Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard***  
25 ***County Code is amended as follows:***

26  
27 *By amending*

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

29                   *Subsection (b) of Section 16.1102 “Housing unit allocation concept; housing unit*  
30                   *allocation chart”*

1  
2 *Subsection (g) of Section 16.1104. Housing unit allocation process.*

3  
4 *Subsection (l) and Subsection (o) of Section 16.1110 "Definitions"*

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

7 **Subtitle 11. Adequate Public Facilities.**

8  
9 **Section 16.1102. Housing unit allocation concept; housing unit allocation chart.**

10 (b) *Housing Unit Allocation Chart:*

11 (1) *Description.* The housing unit allocation chart is a chart indicating the projected  
12 number of housing unit allocations available to be granted in the County each year for  
13 a ten-year period. The chart is designed to specify housing unit allocations for the  
14 scheduled completion year of a project or any phase of a project. [[The chart divides  
15 the available housing unit allocations into the following categories based on  
16 geographic areas as set forth in the general plan: Growth and revitalization, established  
17 communities, the Rural West and Downtown Columbia, and green neighborhood  
18 units.]]

19 (2) *Basis.* The basis of the housing unit allocation chart is the general PLAN'S [[plan  
20 geographic]] targets for residential growth. However, if the general plan monitoring  
21 report indicates that general plan policies for agricultural preservation and  
22 environmental protection are not being met, the housing unit allocation chart may be  
23 adjusted to more effectively achieve these policies.

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

1 (4) *Amendments for economic development, grants, etc.* From time to time, the County  
2 may be presented with opportunities for economic development [o]r availabilities of  
3 state or federal grant moneys which require increasing the number of housing unit  
4 allocations for distribution for a given year. In order to take advantage of these  
5 opportunities, the County Council may, at any time, amend the housing unit allocation  
6 chart for a certain year or years. If the Council makes such an amendment, it shall use  
7 the rolling average (see section 16.1110, "definitions") to amend the number and/or  
8 distribution of allocations for subsequent years.

9 ~~[(5)~~ *Green neighborhood allocations.* To encourage sustainable residential planning and  
10 design, to minimize adverse impacts on natural resources, and to promote energy  
11 efficiency, beginning in fiscal year 2008:

- 12 (i) The annual housing unit allocation chart may move up to 100 allocations per year  
13 from other housing allocation categories to be used solely for housing that meets  
14 green neighborhood standards adopted by resolution of the County Council;  
15 (ii) A development using green neighborhood allocations shall satisfy the remaining  
16 applicable provisions of this subtitle. ]]

17 ~~[[6]]5~~ *Downtown Columbia Housing allocations.* To encourage the revitalization of  
18 Downtown Columbia, beginning in fiscal year 2011 the number of housing unit  
19 allocations shall be increased to provide allocations consistent with the phasing  
20 progression in the adopted Downtown Columbia plan as follows:

- 21 (i) For Downtown Columbia revitalization, the housing unit allocation chart adopted  
22 each year by the County Council shall include the total number of residential units  
23 allowed in the current phase of the downtown revitalization phasing' progression,  
24 and shall also include the total number of units allowed in the downtown  
25 revitalization phasing progression for all subsequent phases of downtown  
26 revitalization.  
27 (ii) The annual distribution of allocations within each phase shall ensure that  
28 sufficient allocations are available at the beginning of each phase to take  
29 advantage of mixed-use market opportunities and ensure timely achievement of  
30 phasing progression and CEPPA requirements.

1 (iii) The granting of allocations for downtown revitalization is made independent of  
2 and without reference to the number of allocations for the planning region of  
3 Columbia. The granting of allocations for development under new Town zoning  
4 that is not subject to the downtown revitalization phasing progression continues to  
5 be based on the allocations for the Columbia Planning Region.

6 ~~[(iv)]~~Development in Downtown Columbia may not use Green Neighborhood  
7 allocations. ]]

8 ~~[(v)]~~(IV) If the total number of residential units proposed in a final development  
9 plan application exceeds the number of available allocations for the scheduled  
10 completion year of either the initial phase or any additional phase(s), the  
11 developer may request and the Department of Planning and Zoning shall authorize  
12 the advancing of allocations from future years needed to complete a  
13 comprehensive final development plan provided that:

- 14 a. The plan complies with phasing progression requirements;
- 15 b. All necessary CEPPA requirements have been met;
- 16 c. All adequate public facilities transportation tests have been passed; and
- 17 d. The adequate public facilities schools tests have been passed.

18 ~~[(vi)]~~(V) Redistribution of housing unit allocations within an approved final  
19 development plan is permitted within the first four years of the final development  
20 plan phasing without being subject to section 16.1104(b) or retesting for housing  
21 unit allocations and adequate school facilities provided:

- 22 a. The total number of housing unit allocations approved by the final  
23 development plan is not exceeded;
- 24 b. Milestones are satisfied for all plan processing;
- 25 c. The redistribution of units complies with the downtown revitalization  
26 phasing progression requirements; and
- 27 d. All necessary CEPPA requirements have been met.

28 The redistribution of units may be subject to retesting for adequate transportation  
29 facilities if the Department of Planning and Zoning, in consultation with the

1 Department of Public Works, finds it appropriate to retest based on the number of  
2 units being redistributed and existing critical lane volume.

3 After the first four years of the final development plan phasing, any redistribution  
4 of housing unit allocations will require rephasing under section 16.1104.(b).

5 ~~[[vii]]~~(vi) Allocations will become permanent upon the recordation of the approved  
6 final development plan, and will remain valid provided the developer continues to  
7 meet all required milestones.  
8

9 **Section 16.1104. Housing unit allocation process.**

10 ~~[[g) Order of Granting Allocations.~~ If a project is eligible for allocations from more than one  
11 category, an allocation granted under this subtitle shall generally be granted from the appropriate  
12 geographic area, prior to granting green neighborhood allocations. The Department may grant  
13 allocations to a project in a different sequence if the grant more equitably distributes allocations  
14 among all projects waiting for allocations.]]  
15

16 **Section 16.1110. Definitions.**

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

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

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

25 (1) Regional pass-through users; and

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

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

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

4 (d-1) *Capacity utilization* means the ratio of a facility's enrollment to its program capacity.

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

6 (1) New Town (NT)

7 (2) Planned Golf Course Community (PGCC)

8 (3) Mixed Use (MXD)

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

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

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

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

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

21 (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section  
22 103 of the Howard County Zoning Regulations.

23 (i) *Exempt governmental facility* means:

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

26 (2) A facility owned by Howard County or any agency thereof where essential County  
27 Government services are provided, limited to police services, fire prevention and  
28 suppression services, emergency medical services, highway maintenance, detention  
29 facilities, water treatment and supply, sewage disposal and treatment and solid waste  
30 disposal.

- 1 (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or  
2 series of drawings, at an appropriate scale, and related text covering all or a portion of  
3 Downtown Columbia that proposes development pursuant to section 125.E of the zoning  
4 regulations.
- 5 (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:  
6 (1) The floor area is calculated by measuring the exterior faces of the walls of the structure  
7 minus any area within the structure devoted to parking, driveways, atria, enclosed  
8 malls and similar areas; and  
9 (2) The lot area is calculated including any adjoining lots used for required parking for the  
10 structure.
- 11 (l) *General plan target; general plan residential growth target* means for the purposes of this  
12 subtitle, the general plan target and general plan residential growth target mean the housing  
13 unit projections established in the general plan [[for each planning area including the senior  
14 east set aside, and in addition 250 housing units per year for Route 1 revitalization]].
- 15 (m) *Governmental action* means the action or inaction of a governmental agency in relation to a  
16 timely filed action by a developer. For the purposes of this subtitle, governmental agency  
17 means an agency of the Federal, State, or local government, including, but not limited to,  
18 the U.S. Corps of Engineers, the Maryland Department of the Environment, the Zoning  
19 Board, and the Board of Appeals.
- 20 (n) *Housing unit allocation or allocation* means an approval to build a housing unit.  
21 (1) *Tentative housing unit allocation or tentative allocation* means the temporary approval,  
22 granted during the subdivision plan process, to build a housing unit in a project which  
23 requires housing unit allocations as a condition of project approval.  
24 (2) *Permanent housing unit allocation or permanent allocation* means a permanent  
25 approval, granted at recordation of a subdivision or at site development plan approval,  
26 to build a housing unit in a project which requires housing unit allocations as a  
27 condition of project approval.
- 28 (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit  
29 allocations available to be granted in the County each year for a ten-year period. THE CHART  
30 DIVIDES THE AVAILABLE HOUSING UNIT ALLOCATIONS INTO ALLOCATION CATEGORIES AND



1 MAY PROVIDE FOR AFFORDABLE HOUSING UNITS. IN A GIVEN YEAR, NO MORE THAN 35  
2 PERCENT OF THE ALLOCATIONS AVAILABLE IN THE GROWTH AND REVITALIZATION REGION  
3 MAY BE GRANTED TO PROJECTS IN A PARTICULAR PLANNING AREA. [[The chart divides the

4 available housing unit allocations into geographic areas and may provide for green  
5 neighborhood and Downtown Columbia units. In a given year, no more than 35 percent of  
6 the allocations available in the growth and revitalization region may be granted to projects  
7 in a particular planning area, as established by PlanHoward 2030, Map 6-2 "Designated  
8 Place Types".]] The number of housing unit allocations on the chart shall be as follows:

- 9 (1) In the first year after the effective date of this subtitle the number of housing unit  
10 allocations on the chart for that year and each of the next two years shall equal the  
11 general plan annual target for residential completions for those years.
- 12 (2) In the second year after the effective date of this subtitle, the number of housing unit  
13 allocations on the chart for that year and for each of the next two years, based on the  
14 rolling average, shall be the general plan target for residential completions for the year  
15 in question minus one-third of the difference between:
- 16 (i) The number of housing unit allocations granted during the prior year plus the  
17 number of housing units in projects approved during the prior year which were  
18 exempt from the provisions of this subtitle pursuant to subsections 16.1107(b)(1)  
19 and (5) of this subtitle; and
- 20 (ii) The prior year's general plan target.
- 21 (3) In the third and later years after the effective date of this subtitle, the number of  
22 housing unit allocations on the chart for the current year and for each of the next two  
23 years, based on the rolling average, shall be the general plan target for residential  
24 completions for the year in question minus one-third of the difference between:
- 25 (i) The housing unit allocations granted during the two preceding years plus the  
26 housing units in projects approved during two preceding years which were exempt  
27 from the provisions of this subtitle pursuant to subsections 16.1107(b)(1) and (5)  
28 of this subtitle; and
- 29 (ii) The sum of the general plan targets for the two preceding years.

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

4 (q) *Impact area*:

5 (1) Impact area means the set of intersections to be studied. In accordance with the table  
6 below, the projected trip generation of a project shall determine the minimum number  
7 of intersections to be included in the impact area.

Net Peak Hour Site Trips	Minimum Number of Intersections in Each Direction
5—99	1
100—399	2
400—799	3
800—1500	4
>1500	5

8 (2) For projects in the planned service area for public water and sewer, excluding  
9 Downtown Columbia, the standard impact area is limited to intersections within one  
10 and a half road miles in all directions from each entrance to the project. For projects  
11 outside the planned service area for public water and sewer, the standard impact area is  
12 limited to intersections within two road miles in all directions from each entrance to  
13 the project. Inside the planned service area for public water and sewer, the minimum  
14 number of intersections in each direction refers to intersections of a major collector or  
15 higher classified road with a major collector or higher classified road for the standard  
16 impact area. Outside the planned service area for public water and sewer, the minimum  
17 number of intersections in each direction refers to intersections of a minor collector or  
18 higher classified road with a minor collector or higher classified road for the standard  
19 impact area. Inside or outside the planned service area for public water and sewer, if an  
20 intersection at an entrance to the project is included in the impact area, it shall not  
21 count toward the minimum number of intersections in each direction.

22 (3) If a development is projected to generate 100 peak hour trips or more for either the AM  
23 or PM study period, the developer shall request a traffic impact area scoping meeting  
24 prior to submitting the plan for the development. The Department of Planning and

1 Zoning shall determine whether the scoping meeting will be conducted by email,  
2 phone, in-person, or virtual meeting, and shall, together with the Department of Public  
3 Works, conduct the meeting with the developer to discuss if the distance of the  
4 standard impact area should be extended or if any additional intersections should be  
5 included in the impact area. The Department of Planning and Zoning, in consultation  
6 with the Department of Public Works, shall determine the additional intersections to be  
7 studied, if any, based on intersection location, anticipated trip distribution, existing  
8 level of service, or known operational complaints and notify the developer in writing  
9 of the intersections to be studied within one week following the scoping meeting. The  
10 Department of Planning and Zoning may waive the requirement to study a certain  
11 intersection if the Department of Public Works has on file a valid traffic study of that  
12 intersection which was completed within the last year. If, during the plan review  
13 process, the peak hour trips generated by the proposed development changes by ten  
14 percent or more or by 15 trips or more, whichever is greater, a new scoping meeting  
15 will be required and the Department of Planning and Zoning, in consultation with the  
16 Department of Public Works, may require additional intersections to be studied based  
17 on intersection location, anticipated trip distribution, existing level of service, or  
18 known operational complaints.

19 For Downtown Columbia the impact area shall be determined in accordance with the  
20 Howard County Design Manual.

- 21 (r) *Initial plan stage.* An initial plan stage means either (i) a sketch plan or preliminary  
22 equivalent sketch plan under the Subdivision and Land Development Regulations; (ii) a  
23 final development plan proposing downtown revitalization under the zoning regulations; or  
24 (iii) a site development plan if subdivision is not required.
- 25 (s) *Major collector or major collector highway* means a road classified as a major collector  
26 highway on the Howard County general plan, except that in determining the impact area for  
27 site development plans, major collector also means a road, not classified as a major  
28 collector highway on the Howard County general plan, but constructed to the physical  
29 specifications set forth in the design manual for construction of a road so classified.

- 1 (t) *Major facilities agreement* means an agreement between the County, the State, if  
2 appropriate, and the developer of a project incorporating the developer's approved  
3 mitigation plan and covering the developer's financial obligations for mitigation.
- 4 (u) *Milestone* means the date, unless delayed by governmental action, by which a developer  
5 must submit the next plan stage of a subdivision to the Department of Planning and Zoning  
6 for approval.
- 7 (v) *Minimum level of service for Howard County road facilities, excluding Downtown*  
8 *Columbia* means level of service D. minimum level of service of a State road facility means  
9 level of service E. for Downtown Columbia, the intersection standard is established in the  
10 Howard County Design Manual.
- 11 (w) *Minor collector* or *minor collector highway* means a road classified as a minor collector  
12 highway on the Howard County general plan.
- 13 (x) *Minor subdivision* means the division of a residential or agricultural parcel that has not been  
14 part of a previously recorded subdivision, into four or fewer residential lots (including  
15 buildable preservation parcels but excluding open space and nonbuildable preservation  
16 parcels), either all at one time or lot by lot.
- 17 (x-1) *Mitigation* means the construction or the funding of improvements to off-site road  
18 facilities by a developer, as approved by the Director of Planning and Zoning, after  
19 consultation with the Director of Public Works.
- 20 (y) *Open*:
- 21 (1) For a school capacity chart adopted prior to January 1, 2019, open has the following  
22 meanings:
- 23 (i) School region—Open means that the projected capacity utilization of a school  
24 region is below 115 percent of the elementary schools within the region.
- 25 (ii) Elementary school—Open means that the projected capacity utilization of the  
26 elementary school is below 115 percent of the school.
- 27 (iii) Middle school—Open means that the projected capacity utilization of the middle  
28 school is below 115 percent of the school.
- 29 (2) For a school capacity chart adopted after January 1, 2019, open has the following  
30 meanings:

- 1 (i) School region—Open means that the projected enrollment of a school region is  
2 below 105 percent of the program capacity of the elementary schools within the  
3 region.
- 4 (ii) Elementary school—Open means that the projected enrollment of the elementary  
5 school is below 105 percent of the program capacity of the school.
- 6 (iii) Middle school—Open means that the projected enrollment of the middle school is  
7 below 110 percent of the program capacity of the school.
- 8 (iv) High school—Open means that the projected enrollment of the high school is  
9 below 115 percent of the program capacity of the school.
- 10 (z) *Phased project* means a project utilizing phasing.
- 11 (aa) *Phasing* means the sequential development of portions of a subdivision pursuant to a sketch  
12 plan which includes a schedule for submission of preliminary and final plan applications for  
13 the various phases of the project and a schedule for completion of these phases.
- 14 (ab) *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary  
15 plan, and final plan.
- 16 (ac) *Planning region* means a geographic area of the County identified in the general plan that is  
17 used for forecasting housing growth.
- 18 (ad) *Program capacity* means the capacity, as defined by the Howard County Board of  
19 Education policies, for grades kindergarten through grade 12. Program capacity does not  
20 include prekindergarten, special education and relocatable capacity.
- 21 (ae) *Road facilities*:
- 22 (1) In planned service area for public water and sewer. In that portion of the County in the  
23 planned service area for public water and sewer, road facilities means at grade  
24 intersections of major collectors or higher classified roads which are beyond the  
25 boundaries of the proposed project.
- 26 (2) In no planned service area for public water and sewer. In that portion of the County in  
27 the no planned service area for public water and sewer, road facilities means at grade  
28 intersections of minor collectors or higher classified roads which are beyond the  
29 boundaries of the proposed project.

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

4 (af) *Rolling average* means to recalculate the number of available housing unit allocations for a  
5 given year in order to manage housing unit allocations under the general plan residential  
6 growth targets.

7 Beginning on July 1, 2020, all prior available allocations are expired and shall be excluded  
8 from the rolling average. Notwithstanding the preceding sentence, beginning on July 1, 2020, no  
9 more than ten percent of the available allocations from the immediately preceding year's housing  
10 unit allocation chart may be included in the recalculation of the rolling average. This provision  
11 shall not apply to Downtown Columbia housing unit allocations.

12 (ag) *Scheduled completion year*:

13 (1) *Road facilities*:

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

18 (ii) *Residential projects*:

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

22 b. When used in relation to road facilities serving phased conventional  
23 residential projects, "scheduled completion year" of the initial phase of the  
24 project means the third year following the year the application is submitted.  
25 The scheduled completion year of subsequent phases of the project are the  
26 years indicated for scheduled completion of the phases of the project as  
27 approved on the subdivision or site development plan.

28 c. When used in relation to road facilities serving phased comprehensive  
29 residential projects, "scheduled completion year" of the phases of the project

1 means the years indicated for scheduled completion of the phases of the  
2 project as approved on the subdivision or site development plan.

3 (2) *Schools:*

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

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

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

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

18 (ah) *School capacity chart* means a chart indicating which elementary school regions and which  
19 elementary, middle, and high schools are open to new residential development and which  
20 are constrained to new residential development for each of the following ten years.

21 (ai) *School capacity test* means a test to determine whether the elementary school region and  
22 elementary, middle, and high school serving a proposed project are open to new residential  
23 development in the scheduled completion year of the project or the phases of the project.

24 (aj) *School region* means a geographic area, determined by the Howard County Board of  
25 Education, containing a group of contiguous elementary school service areas.

26 (ak) *Unphased project* means a project which does not utilize phasing.

27  
28 **SECTION 2. AND BE IT FURTHER ENACTED by the County Council of Howard County, Maryland**  
29 **that the Adequate Public Facilities Act Review Committee that is convened within one year**  
30 **of the enactment of the HOCO By Design General Plan, as required by section 16.801 of**

1 the Howard County Code, considers section 16.1110(o) of the Howard County Code in  
2 developing their recommendations.

3

4 **Section 23.** *And Be It Further Enacted by the County Council of Howard County, Maryland that*  
5 *this Act shall become effective 61 days after its enactment.*



**Amendment 1 to Council Bill No. 41-2023**

**BY: Deb Jung**

**Legislative Day 15  
Date: December 4, 2023**

**Amendment No. 1**

*(This Amendment amends the definition of the housing unit allocation chart to prohibit more than 35% of allocations available to ~~activity centers~~ the growth and revitalization region being granted to projects in a particular planning area and adds a requirement that the Adequate Public Facilities Act Review Committee reviews section 16.1110(o) of the Howard County Code in developing their recommendations.)*

1 On page 7, line 29, after “period.”, insert:

2

3 “THE CHART DIVIDES THE AVAILABLE HOUSING UNIT ALLOCATIONS INTO ALLOCATION  
4 CATEGORIES AND MAY PROVIDE FOR AFFORDABLE HOUSING UNITS. IN A GIVEN YEAR, NO  
5 MORE THAN 35 PERCENT OF THE ALLOCATIONS AVAILABLE IN THE GROWTH AND  
6 REVITALIZATION REGION MAY BE GRANTED TO PROJECTS IN A PARTICULAR PLANNING  
7 AREA.”

8

9 On page 14, after line 26, insert:

10

11 “SECTION 2. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HOWARD  
12 COUNTY, MARYLAND THAT THE ADEQUATE PUBLIC FACILITIES ACT REVIEW COMMITTEE THAT  
13 IS CONVENED WITHIN ONE YEAR OF THE ENACTMENT OF THE HOCo BY DESIGN GENERAL PLAN,  
14 AS REQUIRED BY SECTION 16.801 OF THE HOWARD COUNTY CODE, CONSIDERS SECTION  
15 16.1110(O) OF THE HOWARD COUNTY CODE IN DEVELOPING THEIR RECOMMENDATIONS.”

16

17 On page 14, line 28, strike “2” and substitute: “3”.

**I certify this is a true copy of**

Am 1 CB 41-2023  
**passed on** Dec 4, 2023

Michelle Howard  
**Council Administrator**

Handwritten text, possibly a signature or name.

Handwritten text, possibly a date or reference number.

Handwritten text, possibly a name or title.

**Amendment 1 to Amendment 1 to Council Bill No. 41-2023**

**BY: Deb Jung**

**Legislative Day 15**

**Date: December 4, 2023**

**Amendment No. 1 to Amendment No. 1**

*(This Amendment corrects a typo in the purpose paragraph.)*

- 1 On page 1, on line 2 of the purpose paragraph, strike “*activity centers*” and substitute: “*the*
- 2 *growth and revitalization region*”.

**I certify this is a true copy of**  
Aml Aml CB 41-2023  
**passed on** Dec 4, 2023  
Michelle Dorr  
**Council Administrator**





# Howard County

---


## Internal Memorandum

**Subject:** *Testimony for Council Bill CBXX-2023 (Amendments to APFO)*

**To:** *Brandee Ganz, Chief Administrative Officer*

**From:** *Mary Kendall, Deputy Director, on behalf of Lynda Eisenberg, AICP, Director,  
Department of Planning and Zoning*

**Date:** *October 25, 2023*



**Council Bill No. XX-2023 – Amendments to APFO**

This bill provides amendments to APFO consistent with the new Howard County General Plan, *HoCo By Design*. References to “geographic areas” and other provisions specified under the old General Plan, *PlanHoward 2030*, are no longer relevant and have therefore been removed. These changes are minor and will have no impact to APF other than eliminating obsolete references and to create consistencies with the Allocations Chart as specified in *HoCo By Design*. The new Housing Unit Allocation Chart (Council Resolution No. XX-2023) has been pre-filed for adoption in concurrence with these amendments to APFO.

Further changes to APFO may be requested upon the completion of the work to be conducted by an APFO Review Committee as required under Section 16.1100(b)(3)(iv)(a) of the Adequate Public Facilities Act. The Review Committee shall be convened within one year of the enactment of the new General Plan and will submit a report with recommendations on the Adequate Public Facilities Act to the County Executive and the County Council within one year of its first meeting.

Also, as recommended in *HoCo By Design*, a working group will be established to evaluate and set goals for affordable and accessible housing and establish additional criteria for the Affordable Housing set aside column in the Housing Unit allocation chart.

**Fiscal Impact**

There are no fiscal impacts resulting from the adoption of these resolutions.

cc: Angela Cabellon, Chief of Staff  
Brian Shepter, Deputy Chief of Staff  
Jennifer Sager, Legislative Coordinator  
Jeffrey Bronow, Chief, Division of Research, DPZ  
Jessica Bellah, Deputy Director, DPZ



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

## County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. 13

### Bill No. 41-2023

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

AN ACT amending the Adequate Public Facilities Act in order to remove references to specific types of housing unit allocations; removing references to “geographic” targets as a basis for the housing unit allocation chart; and generally relating to the Adequate Public Facilities Act of Howard County.

Introduced and read first time \_\_\_\_\_, 2023. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Michelle 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 \_\_\_\_\_, 2023.

By order \_\_\_\_\_  
Michelle Harrod, Administrator

This Bill was read the third time on \_\_\_\_\_, 2023 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2023

\_\_\_\_\_  
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           **WHEREAS**, *HoCo By Design*, when effective, will become the new General Plan for  
2 Howard County, supplanting *PlanHoward 2030*; and

3  
4           **WHEREAS**, *HoCo By Design* renders various provisions of the Adequate Public  
5 Facilities Act of Howard County that reference elements of *PlanHoward 2030* obsolete; and

6  
7           **WHEREAS**, Section 16.1102(b) of the Howard County Code requires the Department of  
8 Planning and Zoning to prepare and update a Housing Unit Allocation Chart that incorporates  
9 General Plan projections for the number of housing unit allocations available to be granted in the  
10 County each year; and

11  
12           **WHEREAS**, Sections 16.1102(b)(1) and 16.1110(o) of the Howard County Code each  
13 reference the following “geographic areas” or “Designated Place Types,” established in  
14 *PlanHoward 2030*, for purposes of distributing housing allocations in the Housing Unit  
15 Allocation Chart: Downtown Columbia; Growth and Revitalization; Established Communities;  
16 Green Neighborhood; and the Rural West; and

17  
18           **WHEREAS**, *HoCo By Design* eliminates the Green Neighborhood allocations and  
19 moves away from the “Designated Place Types” outlined in *PlanHoward 2030*, in favor of  
20 “Character Areas.”

21  
22 **NOW, THEREFORE,**

23  
24 ***Section 1. Be It Enacted*** by the County Council of Howard County, Maryland, that the Howard  
25 County Code is amended as follows:

26  
27 *By amending*

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

29                   *Subsection (b) of Section 16.1102 “Housing unit allocation concept; housing unit*  
30                   *allocation chart”*



1  
2 *Subsection (g) of Section 16.1104. Housing unit allocation process.*

3  
4 *Subsection (l) and Subsection (o) of Section 16.1110 "Definitions"*

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

7 **Subtitle 11. Adequate Public Facilities.**

8  
9 **Section 16.1102. Housing unit allocation concept; housing unit allocation chart.**

10 (b) *Housing Unit Allocation Chart:*

- 11 (1) *Description.* The housing unit allocation chart is a chart indicating the projected  
12 number of housing unit allocations available to be granted in the County each year for  
13 a ten-year period. The chart is designed to specify housing unit allocations for the  
14 scheduled completion year of a project or any phase of a project. [[The chart divides  
15 the available housing unit allocations into the following categories based on  
16 geographic areas as set forth in the general plan: Growth and revitalization, established  
17 communities, the Rural West and Downtown Columbia, and green neighborhood  
18 units.]]
- 19 (2) *Basis.* The basis of the housing unit allocation chart is the general PLAN'S [[plan  
20 geographic]] targets for residential growth. However, if the general plan monitoring  
21 report indicates that general plan policies for agricultural preservation and  
22 environmental protection are not being met, the housing unit allocation chart may be  
23 adjusted to more effectively achieve these policies.
- 24 (3) *Preparation and adoption.* The Department of Planning and Zoning shall prepare and  
25 update the housing unit allocation chart for consideration and adoption by the County  
26 Council. Once each year, and more often if the Council determines that amendments  
27 are appropriate, the County Council shall adopt the housing unit allocation chart by  
28 resolution, after a public hearing. Whenever the housing unit allocation chart is  
29 adopted or amended, the school capacity chart shall be adopted or amended  
30 concurrently to be consistent.

1 (4) *Amendments for economic development, grants, etc.* From time to time, the County  
2 may be presented with opportunities for economic development [o]r availabilities of  
3 state or federal grant moneys which require increasing the number of housing unit  
4 allocations for distribution for a given year. In order to take advantage of these  
5 opportunities, the County Council may, at any time, amend the housing unit allocation  
6 chart for a certain year or years. If the Council makes such an amendment, it shall use  
7 the rolling average (see section 16.1110, "definitions") to amend the number and/or  
8 distribution of allocations for subsequent years.

9 ~~[[5] *Green neighborhood allocations.* To encourage sustainable residential planning and  
10 design, to minimize adverse impacts on natural resources, and to promote energy  
11 efficiency, beginning in fiscal year 2008:~~

- 12 (i) The annual housing unit allocation chart may move up to 100 allocations per year  
13 from other housing allocation categories to be used solely for housing that meets  
14 green neighborhood standards adopted by resolution of the County Council;
- 15 (ii) A development using green neighborhood allocations shall satisfy the remaining  
16 applicable provisions of this subtitle. ]]

17 ~~[[[6]]5] *Downtown Columbia Housing allocations.* To encourage the revitalization of  
18 Downtown Columbia, beginning in fiscal year 2011 the number of housing unit  
19 allocations shall be increased to provide allocations consistent with the phasing  
20 progression in the adopted Downtown Columbia plan as follows:~~

- 21 (i) For Downtown Columbia revitalization, the housing unit allocation chart adopted  
22 each year by the County Council shall include the total number of residential units  
23 allowed in the current phase of the downtown revitalization phasing progression,  
24 and shall also include the total number of units allowed in the downtown  
25 revitalization phasing progression for all subsequent phases of downtown  
26 revitalization.
- 27 (ii) The annual distribution of allocations within each phase shall ensure that  
28 sufficient allocations are available at the beginning of each phase to take  
29 advantage of mixed-use market opportunities and ensure timely achievement of  
30 phasing progression and CEPPA requirements.

1 (iii) The granting of allocations for downtown revitalization is made independent of  
2 and without reference to the number of allocations for the planning region of  
3 Columbia. The granting of allocations for development under new Town zoning  
4 that is not subject to the downtown revitalization phasing progression continues to  
5 be based on the allocations for the Columbia Planning Region.

6 ~~[[iv)]~~Development in Downtown Columbia may not use Green Neighborhood  
7 allocations. ]]

8 ~~[[v)]~~(iv) If the total number of residential units proposed in a final development  
9 plan application exceeds the number of available allocations for the scheduled  
10 completion year of either the initial phase or any additional phase(s), the  
11 developer may request and the Department of Planning and Zoning shall authorize  
12 the advancing of allocations from future years needed to complete a  
13 comprehensive final development plan provided that:

- 14 a. The plan complies with phasing progression requirements;
- 15 b. All necessary CEPPA requirements have been met;
- 16 c. All adequate public facilities transportation tests have been passed; and
- 17 d. The adequate public facilities schools tests have been passed.

18 ~~[[vi)]~~(v) Redistribution of housing unit allocations within an approved final  
19 development plan is permitted within the first four years of the final development  
20 plan phasing without being subject to section 16.1104(b) or retesting for housing  
21 unit allocations and adequate school facilities provided:

- 22 a. The total number of housing unit allocations approved by the final  
23 development plan is not exceeded;
- 24 b. Milestones are satisfied for all plan processing;
- 25 c. The redistribution of units complies with the downtown revitalization  
26 phasing progression requirements; and
- 27 d. All necessary CEPPA requirements have been met.

28 The redistribution of units may be subject to retesting for adequate transportation  
29 facilities if the Department of Planning and Zoning, in consultation with the

1 Department of Public Works, finds it appropriate to retest based on the number of  
2 units being redistributed and existing critical lane volume.

3 After the first four years of the final development plan phasing, any redistribution  
4 of housing unit allocations will require rephasing under section 16.1104.(b).

5 ~~[[vii]]~~(vi) Allocations will become permanent upon the recordation of the approved  
6 final development plan and will remain valid provided the developer continues to  
7 meet all required milestones.

8  
9 **Section 16.1104. Housing unit allocation process.**

10 ~~[[g) Order of Granting Allocations. If a project is eligible for allocations from more than one  
11 category, an allocation granted under this subtitle shall generally be granted from the appropriate  
12 geographic area, prior to granting green neighborhood allocations. The Department may grant  
13 allocations to a project in a different sequence if the grant more equitably distributes allocations  
14 among all projects waiting for allocations.]]~~

15  
16 **Section 16.1110. Definitions.**

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

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

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

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

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

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

4 (d-1) *Capacity utilization* means the ratio of a facility's enrollment to its program capacity.

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

6 (1) New Town (NT)

7 (2) Planned Golf Course Community (PGCC)

8 (3) Mixed Use (MXD)

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

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

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

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

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

21 (h) *Downtown Columbia* means the geographic area defined as Downtown Columbia in section  
22 103 of the Howard County Zoning Regulations.

23 (i) *Exempt governmental facility* means:

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

26 (2) A facility owned by Howard County or any agency thereof where essential County  
27 Government services are provided, limited to police services, fire prevention and  
28 suppression services, emergency medical services, highway maintenance, detention  
29 facilities, water treatment and supply, sewage disposal and treatment and solid waste  
30 disposal.

- 1 (j) *Final development plan proposing Downtown Columbia Revitalization* means a drawing or  
2 series of drawings, at an appropriate scale, and related text covering all or a portion of  
3 Downtown Columbia that proposes development pursuant to section 125.E of the zoning  
4 regulations.
- 5 (k) *Floor area ratio* means the ratio of the floor area of a structure to the lot area, where:  
6 (1) The floor area is calculated by measuring the exterior faces of the walls of the structure  
7 minus any area within the structure devoted to parking, driveways, atria, enclosed  
8 malls and similar areas; and  
9 (2) The lot area is calculated including any adjoining lots used for required parking for the  
10 structure.
- 11 (l) *General plan target; general plan residential growth target* means for the purposes of this  
12 subtitle, the general plan target and general plan residential growth target mean the housing  
13 unit projections established in the general plan [[for each planning area including the senior  
14 east set aside, and in addition 250 housing units per year for Route 1 revitalization]].
- 15 (m) *Governmental action* means the action or inaction of a governmental agency in relation to a  
16 timely filed action by a developer. For the purposes of this subtitle, governmental agency  
17 means an agency of the Federal, State, or local government, including, but not limited to,  
18 the U.S. Corps of Engineers, the Maryland Department of the Environment, the Zoning  
19 Board, and the Board of Appeals.
- 20 (n) *Housing unit allocation or allocation* means an approval to build a housing unit.  
21 (1) *Tentative housing unit allocation or tentative allocation* means the temporary approval,  
22 granted during the subdivision plan process, to build a housing unit in a project which  
23 requires housing unit allocations as a condition of project approval.  
24 (2) *Permanent housing unit allocation or permanent allocation* means a permanent  
25 approval, granted at recordation of a subdivision or at site development plan approval,  
26 to build a housing unit in a project which requires housing unit allocations as a  
27 condition of project approval.
- 28 (o) *Housing unit allocation chart* means a chart indicating the projected number of housing unit  
29 allocations available to be granted in the County each year for a ten-year period. [[The chart  
30 divides the available housing unit allocations into geographic areas and may provide for

1 green neighborhood and Downtown Columbia units. In a given year, no more than 35  
2 percent of the allocations available in the growth and revitalization region may be granted to  
3 projects in a particular planning area, as established by Plan Howard 2030, Map 6-2  
4 "Designated Place Types".]] The number of housing unit allocations on the chart shall be as  
5 follows:

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

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

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

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

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

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

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

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

30 (q) *Impact area*:

1 (1) Impact area means the set of intersections to be studied. In accordance with the table  
2 below, the projected trip generation of a project shall determine the minimum number  
3 of intersections to be included in the impact area.

Net Peak Hour Site Trips	Minimum Number of Intersections in Each Direction
5—99	1
100—399	2
400—799	3
800—1500	4
>1500	5

4 (2) For projects in the planned service area for public water and sewer, excluding  
5 Downtown Columbia, the standard impact area is limited to intersections within one  
6 and a half road miles in all directions from each entrance to the project. For projects  
7 outside the planned service area for public water and sewer, the standard impact area is  
8 limited to intersections within two road miles in all directions from each entrance to  
9 the project. Inside the planned service area for public water and sewer, the minimum  
10 number of intersections in each direction refers to intersections of a major collector or  
11 higher classified road with a major collector or higher classified road for the standard  
12 impact area. Outside the planned service area for public water and sewer, the minimum  
13 number of intersections in each direction refers to intersections of a minor collector or  
14 higher classified road with a minor collector or higher classified road for the standard  
15 impact area. Inside or outside the planned service area for public water and sewer, if an  
16 intersection at an entrance to the project is included in the impact area, it shall not  
17 count toward the minimum number of intersections in each direction.

18 (3) If a development is projected to generate 100 peak hour trips or more for either the AM  
19 or PM study period, the developer shall request a traffic impact area scoping meeting  
20 prior to submitting the plan for the development. The Department of Planning and  
21 Zoning shall determine whether the scoping meeting will be conducted by email,  
22 phone, in-person, or virtual meeting, and shall, together with the Department of Public  
23 Works, conduct the meeting with the developer to discuss if the distance of the  
24 standard impact area should be extended or if any additional intersections should be



1 included in the impact area. The Department of Planning and Zoning, in consultation  
2 with the Department of Public Works, shall determine the additional intersections to be  
3 studied, if any, based on intersection location, anticipated trip distribution, existing  
4 level of service, or known operational complaints and notify the developer in writing  
5 of the intersections to be studied within one week following the scoping meeting. The  
6 Department of Planning and Zoning may waive the requirement to study a certain  
7 intersection if the Department of Public Works has on file a valid traffic study of that  
8 intersection which was completed within the last year. If, during the plan review  
9 process, the peak hour trips generated by the proposed development changes by ten  
10 percent or more or by 15 trips or more, whichever is greater, a new scoping meeting  
11 will be required and the Department of Planning and Zoning, in consultation with the  
12 Department of Public Works, may require additional intersections to be studied based  
13 on intersection location, anticipated trip distribution, existing level of service, or  
14 known operational complaints.

15 For Downtown Columbia the impact area shall be determined in accordance with the  
16 Howard County Design Manual.

- 17 (r) *Initial plan stage*. An initial plan stage means either (i) a sketch plan or preliminary  
18 equivalent sketch plan under the Subdivision and Land Development Regulations; (ii) a  
19 final development plan proposing downtown revitalization under the zoning regulations; or  
20 (iii) a site development plan if subdivision is not required.
- 21 (s) *Major collector* or *major collector highway* means a road classified as a major collector  
22 highway on the Howard County general plan, except that in determining the impact area for  
23 site development plans, major collector also means a road, not classified as a major  
24 collector highway on the Howard County general plan, but constructed to the physical  
25 specifications set forth in the design manual for construction of a road so classified.
- 26 (t) *Major facilities agreement* means an agreement between the County, the State, if  
27 appropriate, and the developer of a project incorporating the developer's approved  
28 mitigation plan and covering the developer's financial obligations for mitigation.

- 1 (u) *Milestone* means the date, unless delayed by governmental action, by which a developer  
2 must submit the next plan stage of a subdivision to the Department of Planning and Zoning  
3 for approval.
- 4 (v) *Minimum level of service for Howard County road facilities, excluding Downtown  
5 Columbia* means level of service D. minimum level of service of a State road facility means  
6 level of service E. for Downtown Columbia, the intersection standard is established in the  
7 Howard County Design Manual.
- 8 (w) *Minor collector* or *minor collector highway* means a road classified as a minor collector  
9 highway on the Howard County general plan.
- 10 (x) *Minor subdivision* means the division of a residential or agricultural parcel that has not been  
11 part of a previously recorded subdivision, into four or fewer residential lots (including  
12 buildable preservation parcels but excluding open space and nonbuildable preservation  
13 parcels), either all at one time or lot by lot.
- 14 (x-1) *Mitigation* means the construction or the funding of improvements to off-site road  
15 facilities by a developer, as approved by the Director of Planning and Zoning, after  
16 consultation with the Director of Public Works.
- 17 (y) *Open*:
- 18 (1) For a school capacity chart adopted prior to January 1, 2019, open has the following  
19 meanings:
- 20 (i) School region—Open means that the projected capacity utilization of a school  
21 region is below 115 percent of the elementary schools within the region.
- 22 (ii) Elementary school—Open means that the projected capacity utilization of the  
23 elementary school is below 115 percent of the school.
- 24 (iii) Middle school—Open means that the projected capacity utilization of the middle  
25 school is below 115 percent of the school.
- 26 (2) For a school capacity chart adopted after January 1, 2019, open has the following  
27 meanings:

1 (i) School region—Open means that the projected enrollment of a school region is  
2 below 105 percent of the program capacity of the elementary schools within the  
3 region.

4 (ii) Elementary school—Open means that the projected enrollment of the elementary  
5 school is below 105 percent of the program capacity of the school.

6 (iii) Middle school—Open means that the projected enrollment of the middle school is  
7 below 110 percent of the program capacity of the school.

8 (iv) High school—Open means that the projected enrollment of the high school is  
9 below 115 percent of the program capacity of the school.

10 (z) *Phased project* means a project utilizing phasing

11 (aa) *Phasing* means the sequential development of portions of a subdivision pursuant to a sketch  
12 plan which includes a schedule for submission of preliminary and final plan applications for  
13 the various phases of the project and a schedule for completion of these phases.

14 (ab) *Plan stage* means one of the three levels of a subdivision plan—sketch plan, preliminary  
15 plan, and final plan.

16 (ac) *Planning region* means a geographic area of the County identified in the general plan that is  
17 used for forecasting housing growth.

18 (ad) *Program capacity* means the capacity, as defined by the Howard County Board of  
19 Education policies, for grades kindergarten through grade 12. Program capacity does not  
20 include prekindergarten, special education and relocatable capacity.

21 (ae) *Road facilities*:

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

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

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

4 (af) *Rolling average* means to recalculate the number of available housing unit allocations for a  
5 given year in order to manage housing unit allocations under the general plan residential  
6 growth targets.

7 Beginning on July 1, 2020, all prior available allocations are expired and shall be excluded  
8 from the rolling average. Notwithstanding the preceding sentence, beginning on July 1, 2020, no  
9 more than ten percent of the available allocations from the immediately preceding year's housing  
10 unit allocation chart may be included in the recalculation of the rolling average. This provision  
11 shall not apply to Downtown Columbia housing unit allocations.

12 (ag) *Scheduled completion year*:

13 (1) *Road facilities*:

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

18 (ii) *Residential projects*:

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

22 b. When used in relation to road facilities serving phased conventional  
23 residential projects, "scheduled completion year" of the initial phase of the  
24 project means the third year following the year the application is submitted.  
25 The scheduled completion year of subsequent phases of the project are the  
26 years indicated for scheduled completion of the phases of the project as  
27 approved on the subdivision or site development plan.

28 c. When used in relation to road facilities serving phased comprehensive  
29 residential projects, "scheduled completion year" of the phases of the project

1 means the years indicated for scheduled completion of the phases of the  
2 project as approved on the subdivision or site development plan.

3 (2) *Schools:*

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

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

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

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

18 (ah) *School capacity chart* means a chart indicating which elementary school regions and which  
19 elementary, middle, and high schools are open to new residential development and which  
20 are constrained to new residential development for each of the following ten years.

21 (ai) *School capacity test* means a test to determine whether the elementary school region and  
22 elementary, middle, and high school serving a proposed project are open to new residential  
23 development in the scheduled completion year of the project or the phases of the project.

24 (aj) *School region* means a geographic area, determined by the Howard County Board of  
25 Education, containing a group of contiguous elementary school service areas.

26 (ak) *Unphased project* means a project which does not utilize phasing.

27  
28 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***  
29 ***this Act shall become effective 61 days after its enactment.***



Amendment 1 to Council Bill No. 41-2023

BY: Deb Jung

Legislative Day 15  
Date: December 4, 2023

Amendment No. 1

*(This Amendment amends the definition of the housing unit allocation chart to prohibit more than 35% of allocations available to activity centers being granted to projects in a particular planning area and adds a requirement that the Adequate Public Facilities Act Review Committee reviews section 16.1110(o) of the Howard County Code in developing their recommendations.)*

1 On page 7, line 29, after “period.”, insert:

2

3 “THE CHART DIVIDES THE AVAILABLE HOUSING UNIT ALLOCATIONS INTO ALLOCATION  
4 CATEGORIES AND MAY PROVIDE FOR AFFORDABLE HOUSING UNITS. IN A GIVEN YEAR, NO  
5 MORE THAN 35 PERCENT OF THE ALLOCATIONS AVAILABLE IN THE GROWTH AND  
6 REVITALIZATION REGION MAY BE GRANTED TO PROJECTS IN A PARTICULAR PLANNING  
7 AREA.”

8

9 On page 14, after line 26, insert:

10

11 “SECTION 2. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HOWARD  
12 COUNTY, MARYLAND THAT THE ADEQUATE PUBLIC FACILITIES ACT REVIEW COMMITTEE THAT  
13 IS CONVENED WITHIN ONE YEAR OF THE ENACTMENT OF THE HOCo BY DESIGN GENERAL PLAN,  
14 AS REQUIRED BY SECTION 16.801 OF THE HOWARD COUNTY CODE, CONSIDERS SECTION  
15 16.1110(O) OF THE HOWARD COUNTY CODE IN DEVELOPING THEIR RECOMMENDATIONS.”

16

17 On page 14, line 28, strike “2” and substitute: “3”.





BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 8, 2023.

Michelle Harrod  
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michelle Harrod, Administrator to the County Council

