

Introduced 06.03.2024  
Public Hearing 06.18.2024  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2024 Legislative Session

Legislative Day No. 7

### Bill No. 37 -2024

Introduced by: Christiana Rigby

SHORT TITLE: School facilities surcharge amendment for ~~single family detached dwellings~~ residential dwellings on single lots.

AN ACT to alter the school facilities surcharge for ~~single family detached dwelling~~ residential dwellings on single lots in accordance with Chapter 744 of the Acts of the General Assembly of 2019; and generally relating to the school facilities surcharge.

Introduced and read first time June 3, 2024. 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 June 16, 2024.

By order \_\_\_\_\_

Michelle Harrod  
Michelle Harrod, Administrator

This Bill was read the third time on \_\_\_\_\_, 2024 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 \_\_\_\_\_, 2024 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_

Michelle Harrod, Administrator

Approved by the County Executive \_\_\_\_\_, 2024

\_\_\_\_\_  
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.

Tabled 7.1.2024 Michelle Harrod  
EXPIRED August 12, 2024 Michelle Harrod

1 **WHEREAS**, the County Council has considered the following issues when determining the amount of  
2 the school facilities surcharge:

- 3 (i) The capital costs for the construction of new public schools and additions  
4 to existing public schools;
- 5 (ii) The anticipated amount of the state contribution for school construction  
6 funding;
- 7 (iii) The average percentage of student enrollments that will be generated by  
8 the residential new construction;
- 9 (iv) The impact of school redistricting by the Howard County Board of  
10 Education;
- 11 (v) The potential for charging different amounts for differently sized  
12 residential new construction units;
- 13 (vi) The effect on affordable housing units; and
- 14 (vii) Sources of tax and fee revenue for the County, including the transfer tax.

15  
16 **Now, therefor,**

17  
18 *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard County*  
19 *Code is amended as follows:*

20 *By amending:*

21 *Title 20 - Taxes, Charges, and Fees*

22 *Part vi. Public School Facilities Surcharge*

23 *Sec. 20.143. Surcharge imposed.*

24  
25 **HOWARD COUNTY CODE**

26  
27 **Title 20 - Taxes, Charges, and Fees**

28 **Part vi. Public School Facilities Surcharge**

29 **Sec. 20.143. Surcharge imposed.**

30 (a) Chapter 744 of the Acts of the General Assembly of 2019, set forth in section 20.142 of the  
31 Howard County Code, requires that the County Council impose a school facilities surcharge

1 on residential new construction for which a building permit is issued on or after July 1,  
2 2004, with the revenue from the surcharge to be used to pay for additional or expanded  
3 public school facilities such as renovations to existing school buildings or other systemic  
4 changes, debt service on bonds issued for additional or expanded public school facilities, or  
5 new school construction.

6 (b) (1) In accordance with Chapter 744 of the Acts of the General Assembly of 2019, there is a  
7 public school facilities surcharge imposed on residential new construction for which a  
8 building permit is issued on or after July 1, 2004, other than residential new construction  
9 that is both:

- 10 (i) Classified as senior housing; and
- 11 (ii) An affordable housing unit, as defined in section 28.116 of the County Code.

12 (2) Except as provided in paragraphs (3) and (4) of this subsection, the surcharge is:

- 13 (i) \$4.75 per square foot of occupiable area in residential new construction through  
14 December 31, 2020;
- 15 (ii) \$6.25 per square foot of occupiable area in residential new construction through  
16 December 31, 2021; and
- 17 (iii) \$7.50 per square foot of occupiable area in residential new construction thereafter.

18 (3) (i) The surcharge is \$1.32 per square foot of occupiable area in residential new  
19 construction that is:

- 20 1. Classified as senior housing under 42 U.S.C. § 3607(b); [[or]]
- 21 2. Addition construction, meaning construction of an addition to a building  
22 where the work requires a Howard County building permit and where the  
23 addition either:
  - 24 A. Increases the number of gross square feet of occupiable  
25 nonresidential structure on the property; or
  - 26 B. Increases the number of gross square feet of occupiable residential  
27 structure on the property by 2,000 square feet or less and addition  
28 construction of more than 2,000 square feet shall be assessed a rate

1 under subsection (b)(2) of this section for the square feet of the  
2 addition that is more than 2,000 square feet; OR

3 ~~3. A SINGLE FAMILY DETACHED DWELLING WHICH IS:~~

4 ~~A. BUILT BY AN INDIVIDUAL WHO OWNED THE LOT BEFORE THE~~  
5 ~~SUBMISSION OF A BUILDING PERMIT APPLICATION AND INTENDS TO~~  
6 ~~USE THE DWELLING AS THEIR PRIMARY RESIDENCE; AND~~

7 ~~B. NOT BUILT BY A DEVELOPER, BUILDER, GROUP, OR INDIVIDUAL WHO~~  
8 ~~DOES NOT MEET THE CRITERIA IN SUBPARAGRAPH A OF THIS~~  
9 ~~PARAGRAPH.~~

10 3. RESIDENTIAL DWELLINGS ON SINGLE LOTS WHICH ARE:

11 A. BUILT BY AN INDIVIDUAL WHO:

12 I. OWNED THE LOT BEFORE THE SUBMISSION OF A BUILDING PERMIT  
13 APPLICATION; AND

14 II. INTENDS TO USE AT LEAST ONE OF THE DWELLINGS AS THEIR  
15 PRIMARY RESIDENCE; AND

16 B. NOT BUILT BY A DEVELOPER, BUILDER, GROUP, OR OTHER INDIVIDUAL  
17 WHO DOES NOT MEET THE CRITERIA IN SUBPARAGRAPH A OF THIS  
18 PARAGRAPH, UNLESS THEY ARE RETAINED BY AN INDIVIDUAL WHO  
19 MEETS THE CRITERIA IN SUBPARAGRAPH A.

20 (ii) 1. In this paragraph, "Downtown Columbia Development District" has the meaning  
21 provided for the term "Development District" in Council Resolution 105-2016.

22 2. Outside the Downtown Columbia Development District, surcharge is the  
23 greater of \$1.32 or one-third the rate set under paragraph (2) of this  
24 subsection for a moderate income housing unit that is built onsite beyond the  
25 number of moderate income housing units required for the development by  
26 title 13, subtitle 4 of this Code.

27 3. In the Downtown Columbia Development District, the surcharge on  
28 residential new construction that is an affordable unit is a rate of:

29 A. \$1.32 per square foot of occupiable area; plus

1                                   B. One-half of the difference between \$1.32 and the rate that would  
2                                   be applicable to the residential new construction if it was located  
3                                   outside the Downtown Columbia Development District.

4                   (iii) The surcharge is one-third of the rate set under paragraph (2) of this subsection for  
5                   non-senior residential new construction projects that have received funding from  
6                   the State of Maryland or from the County as an affordable housing project after  
7                   December 31, 2020.

8           (4) The rate established in paragraph (2) of this subsection shall be adjusted for inflation in  
9           accordance with the Consumer Price Index for All Urban Consumers published by the  
10          United States Department of Labor, for the fiscal year preceding the year for which the  
11          amount is being calculated. The adjustment may not reduce the rate below \$1.32.

12   (c) The amount and terms of the surcharge, and the use of the revenue collected under the  
13          surcharge, shall be as required by section 20.142 of the Howard County Code, as enacted by  
14          Chapter 744 of the Acts of the General Assembly of 2019.

15  
16  
17   ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that this Act***  
18   ***shall become effective 61 days after its enactment.***

Introduced 06.03.2024  
Public Hearing 06.18.2024  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

### County Council of Howard County, Maryland

2024 Legislative Session

Legislative Day No. \_\_\_\_\_

Bill No. 37-2024

Introduced by: Christiana Rigby

SHORT TITLE: School facilities surcharge amendment for single family detached dwellings.

AN ACT to alter the school facilities surcharge for single-family detached dwelling in accordance with Chapter 744 of the Acts of the General Assembly of 2019; and generally relating to the school facilities surcharge.

Introduced and read first time June 3, 2024. 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 June 16, 2024.  
By order Michelle Harrod  
Michelle Harrod, Administrator

This Bill was read the third time on \_\_\_\_\_, 2024 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 \_\_\_\_\_, 2024 at \_\_\_\_\_ a.m./p.m.  
By order \_\_\_\_\_  
Michelle Harrod, Administrator

Approved by the County Executive \_\_\_\_\_, 2024  
\_\_\_\_\_  
Calvin Ball, County Executive

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Tabled 7.1.2024 Michelle Harrod

1 **WHEREAS**, the County Council has considered the following issues when determining the amount of  
2 the school facilities surcharge:

- 3 (i) The capital costs for the construction of new public schools and additions  
4 to existing public schools;
- 5 (ii) The anticipated amount of the state contribution for school construction  
6 funding;
- 7 (iii) The average percentage of student enrollments that will be generated by  
8 the residential new construction;
- 9 (iv) The impact of school redistricting by the Howard County Board of  
10 Education;
- 11 (v) The potential for charging different amounts for differently sized  
12 residential new construction units;
- 13 (vi) The effect on affordable housing units; and
- 14 (vii) Sources of tax and fee revenue for the County, including the transfer tax.

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23 *Sec. 20.143. Surcharge imposed.*

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25 **HOWARD COUNTY CODE**

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30 (a) Chapter 744 of the Acts of the General Assembly of 2019, set forth in section 20.142 of the  
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3 public school facilities such as renovations to existing school buildings or other systemic  
4 changes, debt service on bonds issued for additional or expanded public school facilities, or  
5 new school construction.

6 (b) (1) In accordance with Chapter 744 of the Acts of the General Assembly of 2019, there is a  
7 public school facilities surcharge imposed on residential new construction for which a  
8 building permit is issued on or after July 1, 2004, other than residential new construction  
9 that is both:

10 (i) Classified as senior housing; and

11 (ii) An affordable housing unit, as defined in section 28.116 of the County Code.

12 (2) Except as provided in paragraphs (3) and (4) of this subsection, the surcharge is:

13 (i) \$4.75 per square foot of occupiable area in residential new construction through  
14 December 31, 2020;

15 (ii) \$6.25 per square foot of occupiable area in residential new construction through  
16 December 31, 2021; and

17 (iii) \$7.50 per square foot of occupiable area in residential new construction thereafter.

18 (3) (i) The surcharge is \$1.32 per square foot of occupiable area in residential new  
19 construction that is:

20 1. Classified as senior housing under 42 U.S.C. § 3607(b); [[or]]

21 2. Addition construction, meaning construction of an addition to a building  
22 where the work requires a Howard County building permit and where the  
23 addition either:

24 A. Increases the number of gross square feet of occupiable  
25 nonresidential structure on the property; or

26 B. Increases the number of gross square feet of occupiable residential  
27 structure on the property by 2,000 square feet or less and addition  
28 construction of more than 2,000 square feet shall be assessed a rate



1 under subsection (b)(2) of this section for the square feet of the  
2 addition that is more than 2,000 square feet; OR

3 3. A SINGLE-FAMILY DETACHED DWELLING WHICH IS:

4 A. BUILT BY AN INDIVIDUAL WHO OWNED THE LOT BEFORE THE  
5 SUBMISSION OF A BUILDING PERMIT APPLICATION AND INTENDS TO  
6 USE THE DWELLING AS THEIR PRIMARY RESIDENCE; AND

7 B. NOT BUILT BY A DEVELOPER, BUILDER, GROUP, OR INDIVIDUAL WHO  
8 DOES NOT MEET THE CRITERIA IN SUBPARAGRAPH A OF THIS  
9 PARAGRAPH.

10 (ii) 1. In this paragraph, "Downtown Columbia Development District" has the meaning  
11 provided for the term "Development District" in Council Resolution 105-2016.

12 2. Outside the Downtown Columbia Development District, surcharge is the  
13 greater of \$1.32 or one-third the rate set under paragraph (2) of this  
14 subsection for a moderate income housing unit that is built onsite beyond the  
15 number of moderate income housing units required for the development by  
16 title 13, subtitle 4 of this Code.

17 3. In the Downtown Columbia Development District, the surcharge on  
18 residential new construction that is an affordable unit is a rate of:

19 A. \$1.32 per square foot of occupiable area; plus

20 B. One-half of the difference between \$1.32 and the rate that would  
21 be applicable to the residential new construction if it was located  
22 outside the Downtown Columbia Development District.

23 (iii) The surcharge is one-third of the rate set under paragraph (2) of this subsection for  
24 non-senior residential new construction projects that have received funding from  
25 the State of Maryland or from the County as an affordable housing project after  
26 December 31, 2020.

27 (4) The rate established in paragraph (2) of this subsection shall be adjusted for inflation in  
28 accordance with the Consumer Price Index for All Urban Consumers published by the

1 United States Department of Labor, for the fiscal year preceding the year for which the  
2 amount is being calculated. The adjustment may not reduce the rate below \$1.32.

- 3 (c) The amount and terms of the surcharge, and the use of the revenue collected under the  
4 surcharge, shall be as required by section 20.142 of the Howard County Code, as enacted by  
5 Chapter 744 of the Acts of the General Assembly of 2019.

6  
7  
8 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that this Act*  
9 *shall become effective 61 days after its enactment.*

10

**Office of the County Auditor  
Auditor’s Analysis**

**Council Bill No. 37-2024**

Introduced: June 3, 2024

Auditor: Rebecca Gold

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Fiscal Impact:

We are unable to determine the foregone revenue resulting from this legislation, as we are unable to determine the square footage of future residential construction that would qualify for the reduced School Facilities Surcharge (Surcharge) rate of \$1.32 per square foot, versus construction assessed at the regular rate of \$7.50 per square foot.

For future residential construction that will be eligible for the \$1.32 per square foot rate, there will be forgone revenue of \$6.18 per square foot. This amount is based on the difference between the proposed Surcharge rate of \$1.32 for certain residential construction and the current maximum rate of \$7.50, which went into effect January 1, 2022.

The table below offers a historical context for how this proposed Surcharge rate might have impacted new single-family detached (SFD) construction over the last several fiscal years. For purposes of these calculations, we assumed all of the square footage to be eligible for the proposed decreased rate:

<b>Fiscal Year</b>	<b>Total Sq. Ft. of SFD Construction</b>	<b>Total School Surcharge Revenue</b>	<b>Average School Surcharge Rate</b>	<b>Foregone Revenue*</b>
FY 2020	2,210,749	\$ 2,994,338	\$ 1.35	\$ (76,149)
FY 2021	2,442,072	4,470,834	1.83	(1,247,299)
FY 2022	2,916,025	12,921,665	4.43	(9,072,512)
FY 2023	2,019,075	13,298,923	6.59	(10,633,744)
FY 2024 (year to date)	1,447,442	9,124,565	6.30	(7,213,942)

Source of Total Square Footage and Total Surcharge Revenue: “School Surcharge Report” from the Department of Inspections, Licenses and Permits (DILP)

\*Data from the DILP did not differentiate between SFD construction that would or would not be eligible for the reduced rate. We calculated Foregone Revenue assuming that the entirety of SFD construction square footage would be eligible for the reduced rate.

Purpose:

This legislation proposes reducing the School Facilities Surcharge rate from \$7.50 to \$1.32 per square foot of occupiable area for single-family detached residences that meet the following paraphrased criteria:

- Construction must be built by an individual who owned the lot before the submission of a building permit application and who intends to use the dwelling as their primary residence; and
- Construction must not be built by a developer, builder, group, or individual who does not meet the criteria above.

Other Comments:

The School Facilities Surcharge rate will remain in effect until the rate is adjusted for inflation in accordance with Section 20.143(b)(4).

The Director of the DILP indicated that the department does not currently have a mechanism in place for distinguishing between properties that would be eligible or ineligible for the reduced rate under the proposed legislation. Implementing a new procedure to categorize and track square footage eligible for the reduced rate may involve additional work hours or staff, according to the Director.

**Office of the County Auditor  
Auditor’s Analysis**

**REVISED - Council Bill No. 37-2024**

Introduced: June 3, 2024

Auditor: Rebecca Gold

Fiscal Impact:

We are unable to determine the foregone revenue resulting from this legislation, as we are unable to determine the square footage of future residential construction that would qualify for the proposed reduced School Facilities Surcharge (Surcharge) rate of \$1.32 per square foot, versus construction assessed at the current rate.

For future residential construction that will be eligible for the \$1.32 per square foot rate, there will be forgone revenue of \$6.83 per square foot. This amount is based on the difference between the proposed Surcharge rate of \$1.32 for certain residential construction and the current maximum rate of \$8.15, which went into effect July 1, 2024.

We received the following information regarding annual Single Family Detached (SFD) construction and Surcharge revenue from the Department of Inspections, Licenses and Permits’ “School Surcharge Report.” The FY 2024 totals are current through June 6, 2024.

<b>Fiscal Year</b>	<b>Total SFD Sq. Ft.</b>	<b>Total Surcharge Revenue</b>
• FY 2020	2,210,749	\$ 2,994,338
• FY 2021	2,442,072	4,470,834
• FY 2022	2,916,025	12,921,665
• FY 2023	2,019,075	13,298,923
• FY 2024 (as of June 6)	1,447,442	9,124,565

The Director of the Department of Inspections, Licenses and Permits (DILP) estimated that less than 5 percent of construction would be eligible for the reduced rate. The table below shows the forgone revenue that might have resulted from the proposed change if 5 percent of new SFD construction were eligible for the reduced rate, based on the total square feet and total Surcharge revenue above:

<b>Fiscal Year</b>	<b>5% of Sq. Ft.</b>	<b>\$1.32 Surcharge on 5%</b>	<b>Average Surcharge Rate</b>	<b>Average Surcharge on 5%</b>	<b>Potential Forgone Revenue</b>
FY 2020	110,537.5	\$ 145,909	\$ 1.3544451	\$ 149,717	\$ 3,808
FY 2021	122,103.6	161,177	1.8307545	223,542	62,365
FY 2022	145,801.3	192,458	4.4312601	646,083	453,625
FY 2023	100,953.8	133,259	6.5866415	664,946	531,687
FY 2024 as of June 6	72,372.1	95,531	6.3039248	456,228	360,697

Purpose:

This legislation proposes reducing the School Facilities Surcharge rate from \$8.15 to \$1.32 per square foot of occupiable area for residential dwellings on single lots that meet the following paraphrased criteria:

- Construction must be built by an individual who owned the lot before the submission of a building permit application and who intends to use at least one of the dwellings as their primary residence; and
- Construction must not be built by a developer, builder, group, or other individual who does not meet the criteria above.

Other Comments:

The Director of the DILP indicated that the department does not currently have a mechanism in place for distinguishing between properties that would be eligible or ineligible for the reduced rate under the proposed legislation. Implementing a new procedure to categorize and track square footage eligible for the reduced rate may involve additional work hours and/or staff, according to the Director.

The Director of the DILP confirmed during the July 23, 2024, Legislative Work Session that the Surcharge rate per square foot has been updated from \$7.50 to \$7.87 effective July 1, 2023, and from \$7.87 to \$8.15 effective July 1, 2024. The Surcharge rate is adjusted annually for inflation in accordance with the Consumer Price Index.

1 **Amendment 1 to Council Bill No. 37-2024**

2  
3 **BY: Christiana Rigby**

**Legislative Day 8**

4 **Date: July 1, 2024**

5 **Amendment No. 1**

6  
7 *(This amendment clarifies that the intent of the legislation is to focus on lots/parcels, not the*  
8 *dwelling units.)*

9  
10 On the title page, in the short title, strike “single family detached dwellings” and substitute:  
11 “residential dwellings on single lots”.

12  
13 On the title page, in the title, strike “single-family detached dwelling” and substitute: “residential  
14 dwellings on single lots”.

15  
16 On page 3, strike lines 3 through 9 and substitute the following:

17 “3. RESIDENTIAL DWELLINGS ON SINGLE LOTS WHICH ARE:

18 A. BUILT BY AN INDIVIDUAL WHO:

19 I. OWNED THE LOT BEFORE THE SUBMISSION OF A BUILDING PERMIT  
20 APPLICATION; AND

21 II. INTENDS TO USE AT LEAST ONE OF THE DWELLINGS AS THEIR PRIMARY  
22 RESIDENCE; AND

23 B. NOT BUILT BY A DEVELOPER, BUILDER, GROUP, OR OTHER INDIVIDUAL WHO DOES  
24 NOT MEET THE CRITERIA IN SUBPARAGRAPH A OF THIS PARAGRAPH, UNLESS THEY  
25 ARE RETAINED BY AN INDIVIDUAL WHO MEETS THE CRITERIA IN SUBPARAGRAPH  
26 A.”

27  
I certify that this a true copy of

passed on \_\_\_\_\_

\_\_\_\_\_  
Council Administrator