A BILL
ENTITLED

AN ACT concerning
Development Impact Fees Surcharge and Fee

FOR the purpose of imposing a nonresidential excise tax known as the Development Impact Surcharge; providing for certain exceptions; providing for the determination of the surcharge; providing for the rate of the surcharge for certain types of nonresidential buildings; providing for the collection of the surcharge; providing for an appeal of the surcharge imposed; providing for the refund of the surcharge paid under certain circumstances; preserving certain authority of the County; providing that the surcharge constitutes a lien on certain nonresidential real property; providing for certain credits;
establishing a Development Impact Surcharge Fund; providing for the financing of the Fund; providing for the purpose of the Fund; providing for the custody of the Fund and expenditures from the Fund; requiring a certain annual report; defining certain terms; requiring the Director of Permits, Approvals, and Inspections to recommend certain rates for certain nonresidential development to be adopted by the County Council; establishing a Development Impact Fees Fee; setting forth the purpose and scope; defining certain terms; providing for the calculation and amount of the fee; providing for the payment and collection of the fee; providing for adjustments to the fee; providing for the use of the funds collected; providing for the review of the fee schedule; providing for credits and exemptions; and generally relating to Development and Development Impact Fees the imposition of a Development Impact Surcharge and the establishment of a Development Impact Fee.

By adding

Sections 10-16-101 through 10-16-104
Article 10 - Finance
Title 16 - Development Impact Surcharge Fund
Baltimore County Code, 2015

By adding

Sections 11-4-301 through 11-4-305
Article 11 - Taxation
Title 4 - Various Taxes
Subtitle 16 – Development Impact Surcharge
Baltimore County Code, 2015
BY adding Section 32-6-111
Article 32 - Planning, Zoning, and Subdivision Control
Title 6 - Adequate Public Facilities
Baltimore County Code, 2015

WHEREAS, Baltimore County has a pressing need for school construction and capital
improvements throughout the County; and

WHEREAS, Baltimore County is authorized by law to impose and levy new taxes; and

WHEREAS, the tax newly proposed in this Act was advertised once each week in two
newspapers of general circulation in the county for two weeks; and

WHEREAS, the County Council held a hearing on the tax imposed and levied in this Act
on April 30, 2019; and

WHEREAS, development impact fees have been a vital tool of local governments in
Maryland to provide funds for various public facilities proportionate to development; and

WHEREAS, development impact fees have been imposed in other jurisdictions in
Maryland that pay for additional or expanded transportation infrastructure, and public school and
public safety facilities, and debt service on bonds issued for additional or expanded infrastructure
and facilities; and

WHEREAS, House Bill 449 of the Acts of the General Assembly of 2019 authorizes the
Baltimore County Council, by ordinance, to impose development impact fees to finance the
capital cost of certain public works, improvements, and facilities; now therefore,

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:
Article 32—Planning, Zoning, and Subdivision control

Title 6—Adequate Public Facilities

§ 32-6-111—DEVELOPMENT IMPACT FEE.

(A) PURPOSE AND SCOPE.

(1) THIS SECTION IS ADOPTED FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE RESIDENTS OF THE COUNTY BY REQUIRING NEW RESIDENTIAL DEVELOPMENT TO PAY ITS PROPORTIONATE FAIR SHARE OF THE COSTS FOR LAND, CAPITAL FACILITIES, AND OTHER EXPENSES NECESSARY TO ACCOMMODATE DEVELOPMENT IMPACTS ON INFRASTRUCTURE AND PUBLIC SCHOOL AND PUBLIC SAFETY FACILITIES.

(2) NOTHING IN THIS SECTION SHALL AFFECT, IN ANY MANNER, THE PERMISSIBLE USE OF PROPERTY, DENSITY, INTENSITY OF DEVELOPMENT, DESIGN AND IMPROVEMENT STANDARDS OR OTHER APPLICABLE STANDARDS OR REQUIREMENTS SET FORTH IN DEVELOPMENT POLICIES, LAWS AND REGULATIONS OF THE COUNTY WHERE APPLICABLE.

(3) NO ACTION TAKEN OR PAYMENT MADE UNDER THIS SECTION SHALL ELIMINATE ANY AUTHORITY TO APPLY ANY TEST CONCERNING THE ADEQUACY OF PUBLIC FACILITIES UNDER THE COUNTY’S ADEQUATE PUBLIC FACILITIES ORDINANCE.

(B) DEFINITIONS. IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:
(1) "APPLICANT" HAS THE MEANING STATED IN § 32-4-101(E) OF THE CODE.

(2) "BUILDING" HAS THE MEANING STATED IN § 32-4-101(G) OF THE CODE. BUILDING DOES NOT INCLUDE A TEMPORARY STRUCTURE, AS DEFINED IN THE BALTIMORE COUNTY BUILDING CODE.

(3) "DEVELOPMENT" HAS THE MEANING STATED IN § 32-4-101(P) OF THE CODE. DEVELOPMENT MAY ALSO INCLUDE, BUT NOT BE LIMITED TO, DUMPING, EXTRACTION, DREDGING, GRADING, PAVING, STORAGE OF MATERIALS OR EQUIPMENT, LAND EXCAVATION, LAND CLEARING, LAND IMPROVEMENT, LANDFILL OPERATION, OR ANY COMBINATION THEREOF, AND ANY CHANGE IN THE USE OF A BUILDING FOR WHICH A BUILDING PERMIT IS REQUIRED BY LAW.

(4) "DEVELOPMENT IMPACT FEE" MEANS A FEE ADOPTED BY THE COUNTY WHICH IS IMPOSED ON NEW DEVELOPMENT ON A PRO RATA BASIS IN CONNECTION WITH AND AS A CONDITION OF THE ISSUANCE OF A BUILDING PERMIT, AND WHICH IS CALCULATED TO DEFRAY ALL OR A PORTION OF THE COSTS OF THE PUBLIC FACILITIES REQUIRED TO ACCOMMODATE NEW DEVELOPMENT AT COUNTY-DESIGNATED LEVEL OF SERVICE (LOS) STANDARDS AND WHICH REASONABLY BENEFITS THE NEW DEVELOPMENT. IT MAY ALSO BE REFERRED TO AS AN IMPACT FEE.

(5) "NEW CONSTRUCTION" MEANS CONSTRUCTION OF A BUILDING WHICH REQUIRES A BUILDING PERMIT. NEW CONSTRUCTION DOES NOT INCLUDE IF THE BUILDING REPLACES AN EXISTING BUILDING, REPLACEMENT OF A BUILDING DUE TO CASUALTY OR LOSS WITHIN THREE YEARS OF THAT CASUALTY OR LOSS, OR
REPLACEMENT OF A MOBILE HOME ON A SITE, EXCEPT TO THE EXTENT THE
GROSS SQUARE FOOTAGE OF THE REPLACEMENT BUILDING OR REPLACEMENT
MOBILE HOME EXCEEDS THE GROSS SQUARE FOOTAGE OF THE BUILDING OR
MOBILE HOME BEING REPLACED.

(6) “OCCUPIABLE” MEANS SPACE THAT IS:

(I) DESIGNED FOR HUMAN OCCUPANCY IN WHICH INDIVIDUALS MAY
LIVE, WORK, OR CONGREGATE FOR AMUSEMENT; AND

(II) EQUIPPED WITH MEANS OF EGRESS, LIGHT, AND VENTILATION.

(7) “RESIDENTIAL” MEANS A BUILDING THAT CONTAINS ONE OR MORE
DWELLING UNITS AND INCLUDES A BOARDING HOUSE.

(I) RESIDENTIAL INCLUDES ALL AREAS THAT ARE CONTAINED
WITHIN A RESIDENTIAL BUILDING, INCLUDING AN ATTACHED GARAGE OR AREA
FOR HOME OCCUPATIONS.

(II) RESIDENTIAL DOES NOT INCLUDE:

1. TRANSIENT ACCOMMODATIONS, INCLUDING A HOTEL,
COUNTRY INN, OR BED AND BREAKFAST INN;

2. NONRESIDENTIAL USES IN A MIXED-USE STRUCTURE; OR

3. DETACHED ACCESSORY BUILDINGS, INCLUDING A
DETACHED GARAGE OR SHED THAT DOES NOT CONTAIN LIVING QUARTERS.

(8) “GROSS FLOOR AREA” MEANS THE SUM OF THE GROSS HORIZONTAL
AREAS OF ALL FLOORS OF A BUILDING, MEASURED FROM THE EXTERIOR FACES
OF EXTERIOR WALLS AND FROM THE CENTER LINE OF WALLS SEPARATING TWO
OR MORE BUILDINGS, BUT NOT INCLUDING FLOOR SPACE USED FOR OFF STREET PARKING, OR ANY SPACE WHERE THE FLOOR-TO-CEILING HEIGHT IS LESS THAN SIX FEET. THIS TERM DOES NOT INCLUDE ANY FLOOR SPACE IN A BASEMENT OR CELLAR THAT IS UNFINISHED AND WHICH IS USED EXCLUSIVELY FOR STORAGE OR UPON WHICH ARE SITUATED ACCESSORY HEATING OR AIR CONDITIONING EQUIPMENT OR OTHER ACCESSORY MECHANICAL OR ELECTRICAL UTILITY EQUIPMENT, NOR DOES IT INCLUDE ANY FLOOR SPACE IN AN ATRIUM OR LOBBY WHICH IS NOT LEASABLE TO OR OCCUPIED BY INDIVIDUAL TENANTS.

(C) FEE IMPOSED; AMOUNT.

(1) THERE IS IMPOSED A DEVELOPMENT IMPACT FEE IN BALTIMORE COUNTY.

(2) THE COUNTY SHALL IMPOSE A DEVELOPMENT IMPACT FEE ON RESIDENTIAL NEW CONSTRUCTION FOR WHICH A DEVELOPMENT PLAN HAS BEEN APPROVED ON OR AFTER JULY 1, 2019.

(3) FOR FISCAL YEAR 2020, A DEVELOPMENT IMPACT FEE IMPOSED ON RESIDENTIAL NEW CONSTRUCTION SHALL BE IN THE AMOUNT OF THREE DOLLARS ($3.00) PER SQUARE FOOT OF OCCUPIABLE GROSS FLOOR AREA IN THE RESIDENTIAL NEW CONSTRUCTION.

(4) BEGINNING IN FISCAL YEAR 2021, AND CONTINUING EVERY TWO YEARS THEREAFTER, THE COUNTY ADMINISTRATIVE OFFICER SHALL SUBMIT TO THE COUNTY COUNCIL, NO LATER THAN APRIL 15, A PROPOSAL FOR ANY CHANGE TO THE AMOUNT OR CALCULATION OF THE FEE PAYABLE UNDER THIS SECTION,

(D) FEE CALCULATION.

(1) AN APPLICANT SHALL INCLUDE WITH THEIR SUBMITTED DEVELOPMENT PLAN THE OCCUPIABLE GROSS FLOOR AREA OF THE DEVELOPMENT.

(2) THE APPLICANT SHALL CALCULATE THE FEE BASED ON THE DEVELOPMENT IMPACT FEE AMOUNT IN EFFECT AS OF THE DATE THE APPLICATION WAS RECEIVED.

(3) THE FINAL CALCULATION AND FEE AMOUNT SHALL BE SET AT THE HEARING OFFICERS HEARING BY THE ADMINISTRATIVE LAW JUDGE AND STATED IN THE OPINION AND ORDER APPROVING THE DEVELOPMENT PLAN. NO AMOUNT OF THE REQUIRED DEVELOPMENT IMPACT FEE MAY BE REDUCED OR WAIVED BY THE ADMINISTRATIVE LAW JUDGE.

(E) PAYMENT AND COLLECTION OF THE FEE.

(1) THE DEVELOPMENT IMPACT FEE SHALL BE DUE WITHIN THIRTY (30) DAYS OF RECORDATION OF A DEVELOPMENT PLAN PLAT. THE APPLICANT MAY NOT APPLY FOR BUILDING PERMITS PRIOR TO FULL PAYMENT OF THE IMPACT FEE. THE FEE SHALL BE PAID TO THE DEPARTMENT OF PERMITS, APPROVALS, AND INSPECTIONS.
THE PAYMENT OF DEVELOPMENT IMPACT FEES SHALL NOT ENTITLE THE APPLICANT TO A BUILDING PERMIT UNLESS ALL OTHER APPLICABLE LAND USE, ZONING, PLANNING, ADEQUATE PUBLIC FACILITIES, FOREST RESOURCE, PLATING, SUBDIVISION OR OTHER RELATED REQUIREMENTS, STANDARDS AND CONDITIONS HAVE BEEN MET. SUCH OTHER REQUIREMENTS, STANDARDS AND CONDITIONS ARE INDEPENDENT OF THE REQUIREMENT FOR PAYMENT OF A DEVELOPMENT IMPACT FEE.

(f) REFUND OF FEE, SUPPLEMENTAL FEE.


(2) UPON RE-CALCULATION:

(i) IF THE NEW DEVELOPMENT IMPACT FEE IS LESS THAN THE AMOUNT PAID BY THE APPLICANT, THE DIRECTOR SHALL AUTHORIZE A REFUND FOR THE DIFFERENCE.

(ii) IF THE NEW DEVELOPMENT IMPACT FEE IS GREATER THAN THE AMOUNT PAID BY THE APPLICANT, A SUPPLEMENTAL FEE SHALL BE ISSUED AND DUE FROM THE APPLICANT. IF THE APPLICANT DOES NOT PAY A SUPPLEMENTAL
FEE WITHIN THIRTY (30) DAYS OF ASSESSMENT, ANY USE AND OCCUPANCY
PERMITS ISSUED SHALL BE REVOKED UNTIL THE SUPPLEMENTAL FEE IS PAID IN
FULL.

(G) REVENUE AND APPROPRIATION.

(1) REVENUE COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN A
SEPARATE DEVELOPMENT IMPACT FEE ACCOUNT AND IS INTENDED TO
SUPPLEMENT FUNDING FOR INFRASTRUCTURE AND OTHER PUBLIC FACILITIES
AND MAY NOT SUPPLANT OTHER COUNTY OR STATE FUNDING FOR SUCH
FACILITIES.

(2) ALL FUNDS COLLECTED FROM DEVELOPMENT IMPACT FEES SHALL BE
USED FOR CAPITAL IMPROVEMENTS FOR EXPANSION OF THE CAPACITY OF
PUBLIC SCHOOLS, ROADS, AND PUBLIC SAFETY FACILITIES OR DEBT SERVICE ON
BONDS ISSUED FOR SUCH IMPROVEMENTS.

--------(I) EXPANSION OF THE CAPACITY OF A ROAD INCLUDES EXTENSIONS,
WIDENING, INTERSECTION IMPROVEMENTS, UPGRADING SIGNALIZATION,
IMPROVING PAVEMENT CONDITIONS, AND ALL OTHER ROAD AND INTERSECTION
CAPACITY ENHANCEMENT.

--------(II) EXPANSION OF THE CAPACITY OF A PUBLIC SCHOOL INCLUDES
ALL CONSTRUCTION AND REMODELING TO THE EXTENT THAT THE
CONSTRUCTION INCREASES THE CAPACITY OF THE PUBLIC SCHOOLS.

--------(III) EXPANSION OF THE CAPACITY OF PUBLIC SAFETY FACILITIES
INCLUDES THE CONSTRUCTION OF NEW OR EXPANDED POLICE STATIONS, FIRE
STATIONS, AND HEADQUARTERS BUILDINGS, EXPANSION AND UPGRADE OF COMMUNICATIONS EQUIPMENT, AND NEW ADDITIONS TO THE INVENTORIES OF POLICE PATROL VEHICLES, FIRE FIGHTING VEHICLES, AND PARAMEDIC EMERGENCY VEHICLES.

(H) DISTRICTS; APPROPRIATION.

(1) THE BOUNDARIES OF THE DEVELOPMENT IMPACT FEE DISTRICTS SHALL BE ESTABLISHED AS THE MAPPED BOUNDARIES OF THE SOUTHWEST AREA, NORTHWEST AREA, CENTRAL AREA, NORTHEAST AREA, AND SOUTHEAST AREA ACCORDING TO THE BALTIMORE COUNTY PUBLIC SCHOOLS FACILITIES MAP IN EFFECT FOR THE SCHOOL YEAR.

(2) DEVELOPMENT IMPACT FEE FUNDS FOR CAPITAL IMPROVEMENTS SHALL BE APPROPRIATED ONLY IN THE DEVELOPMENT IMPACT FEE DISTRICT WHERE THE DEVELOPMENT OCCURRED AND FROM WHICH THE DEVELOPMENT IMPACT FEE WAS COLLECTED.

(I) CREDITS.

(1) ANY CONVEYANCE OF LAND OR CONSTRUCTION RECEIVED AND ACCEPTED BY THE COUNTY OR THE BOARD OF EDUCATION OF BALTIMORE COUNTY FROM A DEVELOPER, INCLUDING CONSTRUCTION OF A SCHOOL BY A DEVELOPER OR A DEVELOPER'S AGENT PURSUANT TO AN AGREEMENT WITH THE BOARD OF EDUCATION, MAY BE CREDITED AGAINST THE DEVELOPMENT IMPACT FEE DUE IF THE CONVEYANCE OR CONSTRUCTION MEETS THE SAME NEEDS AS
THE DEVELOPMENT IMPACT FEE IN PROVIDING EXPANDED CAPACITY OVER AND ABOVE THE REQUIREMENTS OF THIS TITLE.

_________(II) IF THE DEVELOPER WISHES TO RECEIVE CREDIT AGAINST THE AMOUNT OF THE DEVELOPMENT IMPACT FEE DUE FOR SUCH CONVEYANCE OR CONSTRUCTION, THE DEVELOPER SHALL ENTER INTO A WRITTEN IMPACT FEE CREDIT AGREEMENT WITH THE COUNTY PRIOR TO SUCH CONVEYANCE OR CONSTRUCTION. THE IMPACT FEE CREDIT AGREEMENT SHALL PROVIDE FOR ESTABLISHMENT OF CREDITS AND THE PROCEDURE AND TIME ALLOWED FOR REDEMPTION OF SUCH CREDITS.

_________(III) THE VALUE OF LAND CONVEYED BY A DEVELOPER AND ACCEPTED BY THE COUNTY FOR PURPOSES OF THIS SUBSECTION SHALL BE DETERMINED BY AN APPRAISAL BASED ON THE FAIR MARKET VALUE OF THE LAND. THE VALUE OF FACILITIES CONSTRUCTED BY A DEVELOPER AND ACCEPTED BY THE COUNTY FOR PURPOSES OF THIS SUBSECTION SHALL BE ESTABLISHED BY THE COUNTY. CONSTRUCTION OF FACILITIES SHALL BE IN ACCORDANCE WITH COUNTY AND STATE DESIGN STANDARDS AND SPECIFICATIONS.

______(2) IMPACT FEE CREDITS SHALL BE ALLOWED FOR TRANSPORTATION IMPROVEMENTS PROVIDING TRANSPORTATION CAPACITY OVER AND ABOVE THE ADEQUATE ROAD FACILITIES REQUIREMENTS FOR A DEVELOPMENT PROJECT SET FORTH IN THIS ARTICLE. THE DEVELOPMENT PROVIDING THE CAPITAL IMPROVEMENTS SHALL BE ALLOWED IMPACT FEE CREDITS IN THE AMOUNT
(3) In the event that a developer provides capital improvements to create additional school capacity, including construction of a school, the developer shall be entitled to a credit in the amount provided in the impact fee credit agreement. Credits may not be given for capital improvements necessary to meet existing school capacity deficiencies.

(4) (I) Any land awarded credit under this subsection shall be conveyed no later than the time at which development impact fees are required to be paid.

(II) The portion of the development impact fee represented by a credit for construction shall be deemed paid when the construction is completed and accepted by the county for maintenance or when adequate security for the completion of the construction has been provided.

(5) A development containing affordable housing may receive a credit of 35 percent of the development impact fee imposed for each affordable housing unit.

(6) Impact fee credits are not transferable or assignable unless expressly permitted in an impact fee credit agreement. Unused or unclaimed credits may not be refunded.
(J) EXEMPTIONS. TYPE OF DEVELOPMENT NOT AFFECTED.

(1) NO DEVELOPMENT IMPACT FEE SHALL BE IMPOSED ON NEW DEVELOPMENT FOR WHICH A DEVELOPMENT PLAN CONFERENCE HAS BEEN HELD PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

(2) NO DEVELOPMENT IMPACT FEE SHALL BE IMPOSED ON ANY NEW RESIDENTIAL DEVELOPMENT WHICH DOES NOT ADD A NEW DWELLING UNIT. NO IMPACT FEE SHALL BE IMPOSED FOR ALTERATION OR EXPANSION OF AN EXISTING DWELLING UNIT WHERE NO ADDITIONAL DWELLING UNIT IS CREATED.

(3) NO DEVELOPMENT IMPACT FEES SHALL BE IMPOSED ON THE DEVELOPMENT OF PUBLIC FACILITIES BY THE STATE OF MARYLAND, THE COUNTY, OR THE FEDERAL GOVERNMENT.

(K) BI-ANNUAL REPORT.

(1) BEGINNING ON JULY 1, 2020 AND EVERY TWO YEARS THEREAFTER, THE COUNTY ADMINISTRATIVE OFFICER, IN CONSULTATION WITH THE DIRECTORS OF THE OFFICE OF BUDGET AND FINANCE, DEPARTMENT OF PUBLIC WORKS, DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS, AND DEPARTMENT OF PLANNING, SHALL PROVIDE AN ANNUAL REPORT TO THE COUNTY COUNCIL OF:

(I) THE AMOUNT OF DEVELOPMENT FEES ASSESSED AND COLLECTED BY DEVELOPMENT IMPACT FEE DISTRICT; AND

(II) THE AMOUNT OF REFUNDS, SUPPLEMENTAL FEES, AND REBATES GIVEN OR COLLECTED.

(2) THE REPORT SHALL INCLUDE:
(I) THE NAME OF EACH DEVELOPMENT PROJECT;

(II) THE ADDRESS AND COUNCILMANIC DISTRICT AND DEVELOPMENT FEE DISTRICT IN WHICH THE PROJECT IS LOCATED;

(III) THE NUMBER AND TYPE OF DEVELOPMENT UNITS TO BE CONSTRUCTED;

(IV) THE AMOUNT OF FEE COLLECTED FOR SUCH PROJECTS; AND

(VI) AN ACCOUNTING OF REVENUES FOR EACH COUNCILMANIC DISTRICT AND DEVELOPMENT IMPACT FEE DISTRICT AND CORRESPONDING APPROPRIATIONS.

(3) THE BI-ANNUAL REPORT MAY ALSO INCLUDE ANY OR ALL OF THE FOLLOWING:

(I) RECOMMENDATIONS FOR AMENDMENTS, IF APPROPRIATE, TO THIS SECTION IN ORDER TO IMPROVE THE DEVELOPMENT IMPACT FEES PROGRAM IN THE COUNTY;

(II) PROPOSED CHANGES TO THE COUNTY’S CAPITAL IMPROVEMENTS PROGRAM, INCLUDING THE IDENTIFICATION OF ADDITIONAL PUBLIC FACILITY PROJECTS ANTICIPATED TO BE FUNDED WHOLLY OR PARTIALLY WITH DEVELOPMENT IMPACT FEES;

(III) PROPOSED CHANGES TO THE BOUNDARIES OF DEVELOPMENT IMPACT FEE DISTRICTS, IF APPLICABLE;

(IV) PROPOSED CHANGES TO THE AMOUNT OF THE DEVELOPMENT IMPACT FEE;
(V) Proposed Changes to the Calculation of the Development Impact Fee; and

(VI) Any other data, analysis or recommendations related to the Development Impact Fee program.

(4) The report shall be posted on the County Council internet website.

SECTION 2. And be it further enacted, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on June 5, 2019.

Article 10. Finance.

§ 10-16-101.

There is a nonlapsing development impact surcharge fund.

§ 10-16-102.

The fund may only be used for payment for public works and school construction projects.

§ 10-16-103.
(A) THE FUND SHALL BE FINANCED FROM THE DEVELOPMENT IMPACT SURCHARGE PROVIDED FOR UNDER ARTICLE 11, TITLE 4, SUBTITLE 3 OF THE CODE.

(B) MONIES PROVIDED TO THE FUND SHALL BE TREATED AS A GRANT TO THE FUND.

(C) THE FUND SHALL BE CHARGED FOR THE REASONABLE EXPENSES OF ADMINISTERING THE PROVISIONS OF THIS TITLE.

§ 10-16-104.

(A) THE DIRECTOR OF BUDGET AND FINANCE SHALL HAVE CUSTODY OF AND ACCOUNT FOR THE FUND ACCORDING TO ACCEPTED PRINCIPLES OF SOUND ACCOUNTING AND FISCAL MANAGEMENT.

(B) THE DIRECTOR OF BUDGET AND FINANCE SHALL COLLECT THE DEVELOPMENT IMPACT SURCHARGE AND SHALL MAINTAIN RECORDS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(C) THE DIRECTORS OF BUDGET AND FINANCE AND PUBLIC WORKS SHALL JOINTLY AUTHORIZE ANY PAYMENTS BY OR CHARGES AGAINST THE FUND.

(D) BY FEBRUARY 1 OF EACH YEAR, THE DIRECTORS OF BUDGET AND FINANCE AND PUBLIC WORKS SHALL JOINTLY PROVIDE THE SECRETARY OF THE COUNTY COUNCIL AND EACH MEMBER OF THE COUNTY COUNCIL WITH A REPORT COVERING THE PRECEDING CALENDAR YEAR THAT INCLUDES:
(1) THE AMOUNT OF MONEY COLLECTED UNDER THE DEVELOPMENT IMPACT SURCHARGE;

(2) THE AMOUNT THAT HAS BEEN SPENT AS REQUIRED UNDER THIS TITLE; AND

(3) A DESCRIPTION OF THE PROJECTS UNDERTAKEN AND LOCATIONS WHERE THEY WERE UNDERTAKEN.

Article 11. Taxation.

§ 11-4-301. IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(A) "APPLICANT" MEANS THE INDIVIDUAL, PARTNERSHIP, CORPORATION, OR LEGAL ENTITY WHOSE SIGNATURE APPEARS ON A BUILDING PERMIT APPLICATION.

(B) "BUILDING" HAS THE MEANING STATED IN § 32-4-101 OF THE CODE.

(C) "CAPITAL IMPROVEMENT" HAS THE MEANING STATED IN § 10-2-101 OF THE CODE.

(D) "CONSTRUCTION" MEANS CONSTRUCTION OR ALTERATION OF A BUILDING OR A PART OF A BUILDING THAT REQUIRES A BUILDING PERMIT.

(E) "DEVELOPMENT IMPACT SURCHARGE" MEANS THE TAX IMPOSED UNDER THIS SUBTITLE.
(F) “DIRECTOR” MEANS THE DIRECTOR OF PERMITS, APPROVALS, AND INSPECTIONS, UNLESS OTHERWISE STATED WITHIN A PARAGRAPH.

(G) “FARM USE” MEANS THE RAISING OF FARM PRODUCTS FOR USE OR SALE, INCLUDING ANIMAL OR POULTRY HUSBANDRY, ANIMAL HUSBANDRY FACILITIES, AQUACULTURE AND GROWING OF CROPS INCLUDING GRAIN, VEGETABLES, FRUIT, GRASS FOR PASTURE OR SOD TREES, SHRUBS, FLOWERS AND SIMILAR PRODUCTS OF THE SOIL.

(H) “GROSS LEASABLE AREA” HAS THE MEANING SITED IN SECTION 101.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

(I) "GROSS SQUARE FOOTAGE" MEANS THE GROSS FLOOR AREA OF A BUILDING AS DEFINED BY SECTION 101.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS.

(J) "MIXED-USE BUILDING" MEANS THE USE OF A BUILDING OR PART OF A BUILDING, BUT NOT A SEPARATED OCCUPANCY, HAVING ANY COMBINATION OF RESIDENTIAL USE OR NONRESIDENTIAL USE. NOT WITHSTANDING ANY REGULATIONS TO THE CONTRARY, A MIXED-USE BUILDING SHALL CONSTITUTE A COMMERCIAL BUILDING FOR PURPOSES OF CALCULATING BUILDING SETBACKS.

(K) (1) "NEW CONSTRUCTION" MEANS CONSTRUCTION OF A NEW BUILDING THAT REQUIRES A BUILDING PERMIT.

(2) "NEW CONSTRUCTION" DOES NOT INCLUDE:
(I) FOR A RESIDENTIAL BUILDING WHERE THE CONSTRUCTION INVOLVES:

1. REPLACEMENT OF A BUILDING DUE TO CASUALTY, LOSS, OR DEMOLITION WITHIN THREE YEARS AFTER THAT CASUALTY, LOSS OR DEMOLITION; OR

2. REPLACEMENT OF A MOBILE HOME ON SITE; OR

(II) FOR A NONRESIDENTIAL BUILDING, REPLACEMENT OF A BUILDING READY FOR OCCUPANCY EXCEPT TO THE EXTENT THAT THE GROSS SQUARE FOOTAGE OF THE REPLACEMENT BUILDING EXCEEDS THE GROSS SQUARE FOOTAGE OF THE BUILDING BEING REPLACED.

(L) "NONRESIDENTIAL" MEANS THE USE OF A BUILDING FOR PURPOSES OTHER THAN LIVING OR PERMANENT HABITATION.

(M) "NONRESIDENTIAL FARM CONSTRUCTION" MEANS NONRESIDENTIAL CONSTRUCTION, OR ANY NONRESIDENTIAL PART OF A CONSTRUCTION PROJECT, INTENDED TO BE ACTIVELY USED FOR COMMERCIAL FARM USE OR AGRICULTURAL ACTIVITY.

(N) "OCCUPANCY" MEANS DESIGNED FOR HUMAN OCCUPANCY IN WHICH INDIVIDUALS MAY LIVE, WORK, OR CONGREGATE FOR AMUSEMENT, EDUCATIONAL OR SIMILAR PURPOSES AND WHICH IS EQUIPPED WITH MEANS OF EGRESS, LIGHT AND VENTILATION FACILITIES.

(O) "SEPARATED OCCUPANCY" MEANS A DISCRETE PART OF A BUILDING HAVING A PRINCIPAL USE THAT IS DISTINCT FROM OTHER USES IN THE SAME
BUILDING, INCLUDING A STORE IN A MALL OR AN OFFICE IN A MULTI-UNIT OFFICE BUILDING.

§ 11-4-302.

(A) IN ACCORDANCE WITH § 11-1-102 OF THIS ARTICLE, THERE IS LEVIED AND IMPOSED A TAX KNOWN AS THE DEVELOPMENT IMPACT SURCHARGE ON ALL NEW NONRESIDENTIAL CONSTRUCTION IN THE COUNTY AS SPECIFIED FURTHER HEREIN.

(B)(1) THE DEVELOPMENT IMPACT SURCHARGE SHALL APPLY TO ALL NONRESIDENTIAL NEW CONSTRUCTION THAT HAS BEEN INITIATED ON OR AFTER JULY 1, 2020.

(2) FOR PURPOSES OF THIS SUBSECTION, NEW NONRESIDENTIAL CONSTRUCTION SHALL BE DEEMED INITIATED AND SUBJECT TO THE DEVELOPMENT IMPACT SURCHARGE:

(I) WHEN ANY LIMITED EXEMPTION IS GRANTED BY THE DEVELOPMENT REVIEW COMMITTEE UNDER § 32-4-106 OF THE CODE;

(II) FOR DEVELOPMENT WITHOUT A LIMITED EXEMPTION, A MIXED-USE DEVELOPMENT UPON SUBMISSION OF A CONCEPT PLAN TO THE COUNTY; AND

(III) FOR A PLANNED UNIT DEVELOPMENT, WHEN AN APPLICATION IS SUBMITTED TO THE COUNTY COUNCIL MEMBER IN WHOSE
DISTRICT THE PLANNED UNIT DEVELOPMENT IS TO BE LOCATED IN

ACCORDANCE WITH § 32-4-242 OF THE CODE.

§ 11-4-303.

THE DEVELOPMENT IMPACT SURCHARGE SHALL NOT APPLY TO:

(A) NONRESIDENTIAL FARM CONSTRUCTION SO LONG AS THE
CONSTRUCTION CONTINUES TO BE ACTIVELY USED FOR FARM USE. IF THE
CONSTRUCTION IS USED FOR SOME PURPOSE OTHER THAN ACTIVE FARM USE,
THE DEVELOPMENT IMPACT SURCHARGE SHALL BE REMITTED TO THE
DIRECTOR AT THE THEN EXISTING AMOUNT OF THE DEVELOPMENT IMPACT
SURCHARGE.

(B) CONSTRUCTION BY THE COUNTY, THE BALTIMORE COUNTY BOARD OF
EDUCATION, THE COMMUNITY COLLEGE OF BALTIMORE COUNTY, THE STATE OF
MARYLAND, OR THE FEDERAL GOVERNMENT.

(C) BUILDINGS OWNED BY CORPORATE ENTITIES ORGANIZED AND
OPERATED EXCLUSIVELY FOR RELIGIOUS PURPOSES WITHIN THE MEANING OF
26 U.S.C. § 501 AND USED PRIMARILY FOR RELIGIOUS PURPOSES.

(D) CONSTRUCTION THAT OCCURS ON PROPERTY LOCATED IN WHOLE OR
IN PART IN:

(1) AN ENTERPRISE ZONE AS DEFINED IN § 5-701 OF THE ECONOMIC
DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND;
(2) A BALTIMORE COUNTY COMMERCIAL REVITALIZATION

DISTRICT; OR

(3) A MARYLAND OPPORTUNITY ZONE.

(E) PRIVATE PRIMARY AND SECONDARY EDUCATION SCHOOLS, PRIVATE
NON-PROFIT UNIVERSITIES, PRIVATE NON-PROFIT COLLEGES, AND PUBLIC OR
PRIVATE NON-PROFIT HOSPITALS.

(F) STATE-DESIGNATED TRANSIT ORIENTED DEVELOPMENTS.

(G) PROPERTIES AND FACILITIES, PUBLIC OR PRIVATE, ELIGIBLE TO BE
CONSIDERED AS STATE HOSPITAL REDEVELOPMENT UNDER THE MD ECONOMIC
DEVELOPMENT CODE (2017 REVISION), TITLE 12 LOCAL DEVELOPMENT
AUTHORITIES & RESOURCES, SUBTITLE 2 TAX INCREMENT FINANCING ACT.
SECTION 201 DEFINITIONS, ITEM (Q) STATE HOSPITAL REDEVELOPMENT,
SUBITEMS (1) (I) AND (II).

§ 11-4-304

(A) THE AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE TO BE PAID
BY THE APPLICANT SHALL BE DETERMINED BY THE DIRECTOR BASED ON THE
SCHEDULE OF RATES IN SUBSECTION (C) OF THIS SECTION, AND OTHER
SUBSECTIONS HEREIN AS APPLICABLE.

(B) AN APPLICANT AGGRIEVED BY A DECISION OF THE DIRECTOR
REGARDING THE CALCULATION OF THE AMOUNT OF THE DEVELOPMENT
IMPACT SURCHARGE MAY APPEAL THE DECISION TO THE OFFICE OF
ADMINISTRATIVE HEARINGS WITHIN 30 DAYS AFTER THE DIRECTOR'S DECISION,

PROVIDED THAT:

(1) THE ISSUANCE OF THE USE AND OCCUPANCY PERMIT IS STAYED
PENDING THE DECISION OF THE ADMINISTRATIVE LAW JUDGE; OR

(2) THE APPLICANT PAYS THE DEVELOPMENT IMPACT SURCHARGE
BEFORE FILING THE APPEAL.

(C) THE NONRESIDENTIAL DEVELOPMENT IMPACT SURCHARGE RATES
SHALL BE IMPOSED AS FOLLOWS:

<table>
<thead>
<tr>
<th>Category</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-Family – Rental</td>
<td>$1.50 per square foot</td>
</tr>
<tr>
<td>Commercial</td>
<td>$1.00 per square foot</td>
</tr>
<tr>
<td>Mixed-Use</td>
<td>$1.00 per square foot</td>
</tr>
<tr>
<td>Office</td>
<td>$1.00 per square foot</td>
</tr>
<tr>
<td>Industrial</td>
<td>$0.80 per square foot</td>
</tr>
</tbody>
</table>

(D) THE DIRECTOR SHALL REVIEW THE SCHEDULE OF RATES FOR THE
DEVELOPMENT IMPACT SURCHARGE EVERY FOUR YEARS CONCURRENTLY WITH
THE COMPREHENSIVE ZONING MAPPING PROCESS AND, AFTER CONSULTATION
WITH THE OFFICE OF BUDGET AND FINANCE AND THE DEPARTMENT OF
PLANNING, SHALL RECOMMEND TO THE COUNTY COUNCIL BY THE DATE OF
SUBMISSION FOR THE ANNUAL BUDGET AND APPROPRIATION ORDINANCE
WHETHER OR NOT TO MODIFY THE SCHEDULE FOR THE NEXT FISCAL YEAR

BASED ON NEW DATA OR TECHNICAL INFORMATION.

(E)(1)(I) UPON APPLICATION, THE DIRECTOR MAY RECOMMEND FOR

APPROVAL BY THE COUNTY ADMINISTRATIVE OFFICER A CREDIT AGAINST THE

DEVELOPMENT IMPACT SURCHARGE FOR PROVIDING TRANSPORTATION OR

SEWER CAPACITY OVER AND ABOVE THE REQUIREMENTS OF ARTICLE 32, TITLE

6 OF THE CODE.

(II) THE DIRECTOR MAY SET REQUIREMENTS FOR THE

APPLICATION, INCLUDING BUT NOT LIMITED TO THE FORM OF THE APPLICATION

AND TIME TO SUBMIT THE APPLICATION.

(III) UPON APPROVAL, THE CREDIT PROVIDED UNDER THIS

PARAGRAPH SHALL BE EQUAL TO THE AMOUNT SPENT BY THE APPLICANT ON

THE PROVISION OF THE TRANSPORTATION OR SEWER CAPACITY ADDED.

(IV) THE DIRECTOR MAY NOT GRANT A CREDIT FOR ON-SITE-

RELATED TRANSPORTATION OR SEWER IMPROVEMENTS.

(2)(I) UPON APPLICATION, THE DIRECTOR MAY RECOMMEND FOR

APPROVAL BY THE COUNTY ADMINISTRATIVE OFFICER A CREDIT AGAINST THE

DEVELOPMENT IMPACT SURCHARGE FOR PROVIDING CAPITAL IMPROVEMENTS

TO CREATE ADDITIONAL PUBLIC SCHOOL CAPACITY, OR IMPROVEMENTS TO

THE EXISTING FACILITIES, INCLUDING FIELDS.
(II) THE DIRECTOR MAY SET REQUIREMENTS FOR THE
APPLICATION, INCLUDING BUT NOT LIMITED TO THE FORM OF THE APPLICATION
AND TIME TO SUBMIT THE APPLICATION.

(III) THE CREDIT PROVIDED UNDER THIS PARAGRAPH SHALL
BE EQUAL TO THE AMOUNT SPENT BY THE APPLICANT ON THE PROVISION OF
THE SCHOOL CAPACITY ADDED, WHICH SHALL BE INDEPENDENTLY
CALCULATED.

(IV) THE DIRECTOR MAY NOT GRANT A CREDIT FOR CAPITAL
IMPROVEMENTS REQUIRED TO MEET EXISTING PUBLIC SCHOOL CAPACITY
DEFICIENCIES.

(3)(I) CREDITS GRANTED UNDER THIS SUBSECTION ARE NOT
TRANSFERABLE OR ASSIGNABLE.

(II) UNUSED OR UNCLAIMED CREDITS MAY NOT BE
REFUNDED.

(4) THE CREDIT GRANTED UNDER THIS SUBSECTION MAY NOT BE
GREATER THAN THE AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE.

(F) THE COUNTY MAY ACCEPT A CONVEYANCE OF LAND, THE VALUE OF
WHICH SHALL BE DETERMINED BY THE COUNTY, AS A CREDIT AGAINST THE
DEVELOPMENT IMPACT SURCHARGE AS FOLLOWS:

(1) THE LAND CONVEYED MEETS A MINIMUM THRESHOLD OF
ACRAGE THAT SHALL BE REVIEWED IN THE SAME MANNER AND AT THE SAME
TIME AS THE SCHEDULE OF RATES FOR THE DEVELOPMENT IMPACT SURCHARGE
AND SHALL, UNTIL THE FIRST SUCH REVIEW, BE SET AT TWELVE (12) ACRES,
UNLESS EXPRESSLY WAIVED BY THE COUNTY IN WRITING;

(2) THE LAND IS LOCATED ON-SITE OF THE PROPERTY BEING
DEVELOPED;

(3) THE PROPERTY TO BE DEDICATED IS NOT ENVIRONMENTALLY
CONSTRAINED;

(4) THE PROPERTY TO BE DEDICATED IS ACCEPTABLE TO THE
COUNTY COUNCIL;

(5) THE CONVEYANCE IS COMPLETE NO LATER THAN WHEN THE
DEVELOPMENT IMPACT SURCHARGE MUST BE PAID; AND

(6) THE AMOUNT OF CREDIT FOR AN APPLICANT MAY RECEIVE FOR
A CONVEYANCE OF LAND SHALL BE DETERMINED BY THE COUNTY WITHIN A
REASONABLE AMOUNT OF TIME AFTER THE AMOUNT OF DEVELOPMENT IMPACT
SURCHARGE IS SET AND, IF SUCH CREDIT DOES NOT COMPLETELY COVER THE
ASSESSED DEVELOPMENT IMPACT SURCHARGE, SHALL PROMPTLY NOTIFY THE
APPLICANT OF THE REMAINING BALANCE DUE.

§ 11-4-305.

(A) AN APPLICANT SHALL PAY THE DEVELOPMENT IMPACT SURCHARGE
AT ANY TIME AFTER THE ISSUANCE OF A BUILDING PERMIT BUT NO LATER
THAN THE ISSUANCE OF A USE AND OCCUPANCY PERMIT.
(B) THE PAYMENT SHALL BE SUBMITTED TO THE DIRECTOR ALONG WITH ANY FORM AND ANY INFORMATION REQUIRED BY THE DIRECTOR.

(C)(1) THE DIRECTOR SHALL REFUND TO THE APPLICANT THE DEVELOPMENT IMPACT SURCHARGE PAID IF THE BUILDING PERMIT IS DISAPPROVED, CANCELED OR EXPIRES.

(2) IF, ON APPEAL BY AN APPLICANT WHO HAS PAID THE DEVELOPMENT IMPACT SURCHARGE, A FINAL NONAPPEALABLE DECISION HAS FOUND THAT THE DIRECTOR HAS ERRED IN CALCULATING THE DEVELOPMENT IMPACT SURCHARGE, THE DIRECTOR SHALL REFUND TO THE APPLICANT THE DIFFERENCE BETWEEN THE AMOUNT OF THE DEVELOPMENT IMPACT SURCHARGE PAID BY THE APPLICANT AND THE CORRECT AMOUNT.

(D) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO CHANGE OR SUPERSEDE ANY OTHER REQUIREMENT OF COUNTY, STATE OR FEDERAL LAW THAT MAY APPLY TO THE DEVELOPMENT, INCLUDING COUNTY ZONING LAW AND THE DEVELOPMENT REGULATIONS THAT MAY IMPOSE ON-SITE AND OFF-SITE INFRASTRUCTURE OR OTHER CAPITAL IMPROVEMENT REQUIREMENTS.

(E) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO LIMIT THE COUNTY’S AUTHORITY TO ENTER INTO DEVELOPMENT AGREEMENTS WITH APPLICANTS FOR NEW OR EXPANDED DEVELOPMENTS THAT PROVIDE FOR A DEDICATION OF LAND, PAYMENTS IN LIEU OF TAXES OR FEES, OR ACTUAL INFRASTRUCTURE IMPROVEMENTS.
(F) UNPAID DEVELOPMENT IMPACT SURCHARGES ARE A LIEN AGAINST THE REAL PROPERTY FOR WHICH THE BUILDING PERMIT IS ISSUED AND SHALL BE LEVIED, COLLECTED AND ENFORCED IN THE SAME MANNER AS COUNTY REAL PROPERTY TAXES AND SHALL HAVE THE SAME PRIORITY AND BEAR THE SAME INTEREST AND PENALTIES AS COUNTY REAL PROPERTY TAXES FOR LIEN PURPOSES.

Article 32 – Planning, Zoning, and Subdivision control

Title 6 – Adequate Public Facilities

§ 32-6-111. - DEVELOPMENT IMPACT FEE.

(A) PURPOSE AND SCOPE.

(1) THIS SECTION IS ADOPTED FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE RESIDENTS OF THE COUNTY BY REQUIRING NEW RESIDENTIAL DEVELOPMENT TO PAY ITS PROPORTIONATE FAIR SHARE OF THE COSTS FOR LAND, CAPITAL FACILITIES, AND OTHER EXPENSES NECESSARY TO ACCOMMODATE DEVELOPMENT IMPACTS ON INFRASTRUCTURE AND PUBLIC SCHOOL AND PUBLIC SAFETY FACILITIES.

(2) NOTHING IN THIS SECTION SHALL AFFECT, IN ANY MANNER, THE PERMISSIBLE USE OF PROPERTY, DENSITY, INTENSITY OF DEVELOPMENT, DESIGN AND IMPROVEMENT STANDARDS OR OTHER APPLICABLE STANDARDS
OR REQUIREMENTS SET FORTH IN DEVELOPMENT POLICIES, LAWS AND
REGULATIONS OF THE COUNTY WHERE APPLICABLE.

(3) NO ACTION TAKEN OR PAYMENT MADE UNDER THIS SECTION SHALL
ELIMINATE ANY AUTHORITY TO APPLY ANY TEST CONCERNING THE ADEQUACY
OF PUBLIC FACILITIES UNDER THE COUNTY'S ADEQUATE PUBLIC FACILITIES
ORDINANCE.

(B) DEFINITIONS. IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED:

(1) "APPLICANT" MEANS THE INDIVIDUAL, PARTNERSHIP, CORPORATION,
OR LEGAL ENTITY WHOSE SIGNATURE APPEARS ON A BUILDING PERMIT
APPLICATION.

(2) "BUILDING" HAS THE MEANING STATED IN § 32-4-101 OF THE CODE.

(3) “DEVELOPMENT” HAS THE MEANING STATED IN § 32-4-101(P) OF THE
CODE. DEVELOPMENT MAY ALSO INCLUDE, BUT NOT BE LIMITED TO, DUMPING,
EXTRACTION, DREDGING, GRADING, PAVING, STORAGE OF MATERIALS OR
EQUIPMENT, LAND EXCAVATION, LAND CLEARING, LAND IMPROVEMENT,
LANDFILL OPERATION, OR ANY COMBINATION THEREOF, AND ANY CHANGE IN
THE USE OF A BUILDING FOR WHICH A BUILDING PERMIT IS REQUIRED BY LAW.

(4) “DEVELOPMENT IMPACT FEE” MEANS A FEE ADOPTED BY THE COUNTY
WHICH IS IMPOSED ON A PRO RATA BASIS IN CONNECTION WITH THE SALE OF
NEW RESIDENTIAL DEVELOPMENT PRIOR TO THE ISSUANCE OF A USE AND
OCCUPANCY PERMIT, AND WHICH IS CALCULATED TO DEFRAY ALL OR A PORTION OF THE COSTS OF THE PUBLIC FACILITIES REQUIRED TO ACCOMMODATE NEW DEVELOPMENT AT COUNTY-DESIGNATED LEVEL OF SERVICE (LOS) STANDARDS AND WHICH REASONABLY BENEFITS THE NEW DEVELOPMENT. IT MAY ALSO BE REFERRED TO AS AN IMPACT FEE.

(5) “GROSS SALES PRICE” MEANS THE SALES PRICE IDENTIFIED IN SECTION K, LINE 1 OF THE CLOSING DISCLOSURE AT SETTLEMENT OR LINE 101 OF THE HUD-1 OR THEIR EQUIVALENT, WHICH MAY BE IDENTIFIED BY THE DIRECTOR SO LONG AS THE LINE OR AMOUNT IS INTENDED TO BE OR REPRESENT THE GROSS SALES PRICE.

(6) “NEW CONSTRUCTION” MEANS CONSTRUCTION OF A NEW BUILDING WHICH REQUIRES A BUILDING PERMIT. NEW CONSTRUCTION DOES NOT INCLUDE IF THE BUILDING REPLACES AN EXISTING BUILDING, REPLACEMENT OF A BUILDING DUE TO CASUALTY OR LOSS WITHIN THREE YEARS OF THAT CASUALTY OR LOSS, OR REPLACEMENT OF A MOBILE HOME ON A SITE, EXCEPT TO THE EXTENT THE GROSS SQUARE FOOTAGE OF THE REPLACEMENT BUILDING OR REPLACEMENT MOBILE HOME EXCEEDS THE GROSS SQUARE FOOTAGE OF THE BUILDING OR MOBILE HOME BEING REPLACED.

(7) “OCCUPIABLE” MEANS SPACE THAT IS:

(I) DESIGNED FOR HUMAN OCCUPANCY IN WHICH INDIVIDUALS MAY LIVE, WORK, OR CONGREGATE FOR AMUSEMENT; AND

(II) EQUIPPED WITH MEANS OF EGRESS, LIGHT, AND VENTILATION.
(8) “RESIDENTIAL” MEANS A BUILDING THAT CONTAINS ONE OR MORE DWELLING UNITS AND INCLUDES A BOARDING HOUSE.

(I) RESIDENTIAL INCLUDES ALL AREAS THAT ARE CONTAINED WITHIN A RESIDENTIAL BUILDING, INCLUDING AN ATTACHED GARAGE OR AREA FOR HOME OCCUPATIONS.

(II) RESIDENTIAL DOES NOT INCLUDE:

1. TRANSIENT ACCOMMODATIONS, INCLUDING A HOTEL, COUNTRY INN, OR BED AND BREAKFAST INN;

2. NONRESIDENTIAL USES IN A MIXED-USE STRUCTURE; OR

3. DETACHED ACCESSORY BUILDINGS, INCLUDING A DETACHED GARAGE OR SHED OR OTHER ACCESSORY STRUCTURE THAT DOES NOT CONTAIN LIVING QUARTERS.

(C) FEE IMPOSED; AMOUNT.

(1) THERE IS IMPOSED A DEVELOPMENT IMPACT FEE IN BALTIMORE COUNTY.

(2) THE COUNTY SHALL IMPOSE A DEVELOPMENT IMPACT FEE ON RESIDENTIAL NEW CONSTRUCTION IN THE COUNTY, AS SPECIFIED FURTHER HEREIN.

(3) A DEVELOPMENT IMPACT FEE ON RESIDENTIAL NEW CONSTRUCTION SHALL BE CALCULATED AS FOLLOWS:
SINGLE-FAMILY DETACHED  1.5% OF GROSS SALES PRICE
SINGLE-FAMILY SEMI-DETACHED  1.5% OF GROSS SALES PRICE
SINGLE-FAMILY ATTACHED  1.5% OF GROSS SALES PRICE
MULTI-FAMILY – FOR SALE CONDOMINIUM  1.5% OF GROSS SALES PRICE

(4) THE DIRECTOR OF PERMITS, APPROvals AND INSPECTIONS SHALL REViEW THE SCHEDULE OF RATES FOR THE DEVELOPMENT IMPACT FEE EVERY FOUR YEARS CONCURRENTLY WITH THE COMPREHENSIVE ZONING MAPPING PROCESS AND, AFTER CONSULTATION WITH THE OFFICE OF BUDGET AND FiNANCE AND THE DEPARTMENT OF PLANNING, SHALL RECOMMEND TO THE COUNTY COUNCIL BY THE DATE OF SUBMISSION FOR THE ANNUAL BUDGET AND APPROPRIATION ORDINANCE WHETHER OR NOT TO MODIFY THE SCHEDULE FOR THE NEXT FISCAL YEAR BASED ON NEW DATA OR TECHNICAL INFORMATION.

(D) PAYMENT AND COLLECTION OF THE FEE.

(1) THE APPLICANT SHALL PAY THE DEVELOPMENT IMPACT FEE AT THE TIME OF SETTLEMENT IF THERE WILL BE A WRITTEN INSTRUMENT THAT CONVEYS TITLE TO, OR A LEASEHOLD INTEREST IN, REAL PROPERTY; OTHERWISE, PRIOR TO THE ISSUANCE OF A USE AND OCCUPANCY PERMIT, WHICH MAY NOT BE ISSUED PRIOR TO PAYMENT IF REQUIRED AT THAT TIME.
THE FEE SHALL BE PAID TO THE DEPARTMENT OF PERMITS, APPROVALS, AND INSPECTIONS.

(2) THE PAYMENT OF DEVELOPMENT IMPACT FEES SHALL NOT ENTITLE THE APPLICANT TO A USE AND OCCUPANCY PERMIT UNLESS ALL OTHER APPLICABLE LAND USE, ZONING, PLANNING, ADEQUATE PUBLIC FACILITIES, FOREST RESOURCE, PLATTING, SUBDIVISION OR OTHER RELATED REQUIREMENTS, STANDARDS AND CONDITIONS HAVE BEEN MET. SUCH OTHER REQUIREMENTS, STANDARDS AND CONDITIONS ARE INDEPENDENT OF THE REQUIREMENT FOR PAYMENT OF A DEVELOPMENT IMPACT FEE.

(E) REVENUE AND APPROPRIATION.

(1) REVENUE COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN A SEPARATE DEVELOPMENT IMPACT FEE ACCOUNT AND IS INTENDED TO SUPPLEMENT FUNDING FOR INFRASTRUCTURE AND OTHER PUBLIC FACILITIES AND MAY NOT SUPPLANT OTHER COUNTY OR STATE FUNDING FOR SUCH FACILITIES.

(2) ALL FUNDS COLLECTED FROM DEVELOPMENT IMPACT FEES SHALL BE USED FOR CAPITAL IMPROVEMENTS FOR EXPANSION OF THE CAPACITY OF PUBLIC SCHOOLS, ROADS, AND PUBLIC SAFETY FACILITIES INCLUDING BUT NOT LIMITED TO SITE ACQUISITION OR IMPROVEMENTS, PLANNING, DESIGN, OR ENGINEERING AND CONSTRUCTION, OR DEBT SERVICE ON BONDS ISSUED FOR SUCH IMPROVEMENTS.
(I) EXPANSION OF THE CAPACITY OF A ROAD INCLUDES EXTENSIONS, WIDENING, INTERSECTION IMPROVEMENTS, UPGRADEX SIGNALIZATION, IMPROVING PAVEMENT CONDITIONS, AND ALL OTHER ROAD AND INTERSECTION CAPACITY ENHANCEMENT.

(II) EXPANSION OF THE CAPACITY OF A PUBLIC SCHOOL INCLUDES ALL CONSTRUCTION AND REMODELING TO THE EXTENT THAT THE CONSTRUCTION INCREASES THE CAPACITY OF THE PUBLIC SCHOOLS.

(III) EXPANSION OF THE CAPACITY OF PUBLIC SAFETY FACILITIES INCLUDES THE CONSTRUCTION OF NEW OR EXPANDED POLICE STATIONS, FIRE STATIONS, AND HEADQUARTERS BUILDINGS, EXPANSION AND UPGRADEING OF COMMUNICATIONS EQUIPMENT, AND NEW ADDITIONS TO THE INVENTORIES OF POLICE PATROL VEHICLES, FIRE FIGHTING VEHICLES, AND PARAMEDIC EMERGENCY VEHICLES.

(F) DISTRICTS; APPROPRIATION.

(1) THE BOUNDARIES OF THE DEVELOPMENT IMPACT FEE DISTRICTS SHALL BE ESTABLISHED AS THE MAPPED BOUNDARIES OF THE SOUTHWEST AREA, NORTHWEST AREA, CENTRAL AREA, NORTHEAST AREA, AND SOUTHEAST AREA ACCORDING TO THE BALTIMORE COUNTY PUBLIC SCHOOLS FACILITIES MAP IN EFFECT FOR THE SCHOOL YEAR.

(2) DEVELOPMENT IMPACT FEE FUNDS FOR CAPITAL IMPROVEMENTS SHALL BE APPROPRIATED ONLY IN THE DEVELOPMENT IMPACT FEE DISTRICT
WHERE THE DEVELOPMENT OCCURRED AND FROM WHICH THE DEVELOPMENT IMPACT FEE WAS COLLECTED.

(G) CREDITS.

(1) (I) ANY CONVEYANCE OF LAND OR CONSTRUCTION RECEIVED AND ACCEPTED BY THE COUNTY OR THE BOARD OF EDUCATION OF BALTIMORE COUNTY FROM AN APPLICANT, INCLUDING CONSTRUCTION OF A SCHOOL BY AN APPLICANT OR AN APPLICANT’S AGENT PURSUANT TO AN AGREEMENT WITH THE BOARD OF EDUCATION, MAY BE CREDITED AGAINST THE DEVELOPMENT IMPACT FEE DUE IF:

(A) THE CONVEYANCE OR CONSTRUCTION MEETS THE SAME NEEDS AS THE DEVELOPMENT IMPACT FEE IN PROVIDING EXPANDED CAPACITY OVER AND ABOVE THE REQUIREMENTS OF THIS TITLE;

(B) THE LAND CONVEYED IS LOCATED ON-SITE OF THE PROPERTY BEING DEVELOPED;

(C) THE LAND CONVEYED IS NOT ENVIRONMENTALLY CONSTRAINED.

(II) IF THE APPLICANT WISHES TO RECEIVE CREDIT AGAINST THE AMOUNT OF THE DEVELOPMENT IMPACT FEE DUE FOR SUCH CONVEYANCE OR CONSTRUCTION, THE APPLICANT SHALL ENTER INTO A WRITTEN IMPACT FEE CREDIT AGREEMENT WITH THE COUNTY PRIOR TO SUCH CONVEYANCE OR CONSTRUCTION. THE IMPACT FEE CREDIT AGREEMENT SHALL PROVIDE FOR
Establishment of credits and the procedure and time allowed for redemption of such credits.

(III) The value of land conveyed by an applicant and accepted by the county for purposes of this subsection shall be determined by an appraisal based on the fair market value of the land. The value of facilities constructed by an applicant and accepted by the county for purposes of this subsection shall be established by the county. Construction of facilities shall be in accordance with county and state design standards and specifications.

(2) Impact fee credits shall be allowed for transportation improvements providing transportation capacity over and above the adequate road facilities requirements for a development project set forth in this article. The development providing the capital improvements shall be allowed impact fee credits in the amount provided in the impact fee credit agreement. Credit may not be given for site-related transportation improvements.

(3) In the event that an applicant provides capital improvements to create additional school capacity, including construction of a school, the applicant shall be entitled to a credit in the amount provided in the impact fee credit agreement.
CREDITS MAY NOT BE GIVEN FOR CAPITAL IMPROVEMENTS NECESSARY TO MEET EXISTING SCHOOL CAPACITY DEFICIENCIES.

(4) (I) ANY LAND AWARDED CREDIT UNDER THIS SUBSECTION SHALL BE CONVEYED NO LATER THAN THE TIME AT WHICH DEVELOPMENT IMPACT FEES ARE REQUIRED TO BE PAID.

(II) THE PORTION OF THE DEVELOPMENT IMPACT FEE REPRESENTED BY A CREDIT FOR CONSTRUCTION SHALL BE DEEMED PAID WHEN THE CONSTRUCTION IS COMPLETED AND ACCEPTED BY THE COUNTY FOR MAINTENANCE OR WHEN ADEQUATE SECURITY FOR THE COMPLETION OF THE CONSTRUCTION HAS BEEN PROVIDED.

(5) A DEVELOPMENT CONTAINING AFFORDABLE HOUSING MAY RECEIVE A CREDIT OF 35 PERCENT OF THE DEVELOPMENT IMPACT FEE IMPOSED FOR EACH AFFORDABLE HOUSING UNIT.

(6) IMPACT FEE CREDITS ARE NOT TRANSFERABLE OR ASSIGNABLE UNLESS EXPRESSLY PERMITTED IN AN IMPACT FEE CREDIT AGREEMENT. UNUSED OR UNCLAIMED CREDITS MAY NOT BE REFUNDED.

(H) EXEMPTIONS.

(1) NO DEVELOPMENT IMPACT FEE SHALL BE IMPOSED ON NEW RESIDENTIAL DEVELOPMENT FOR WHICH ANY NON-APPEALABLE APPROVAL HAS BEEN GRANTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT.
(2) No development impact fee shall be imposed on any new residential development which does not add a new dwelling unit. No impact fee shall be imposed for alteration or expansion of an existing dwelling unit where no additional dwelling unit is created.

(3) No development impact fees shall be imposed on the development of public facilities by the state of Maryland, the county, or the federal government.

(4) No development impact fees shall be imposed on any development that is solely intended for use as dormitories.

(5) No development impact fees shall be imposed on new construction of new multi-family dwellings which are certified by the department of planning as a senior-restricted community, or that is otherwise considered senior housing for residents 55 years old or older.

(6) Residential development that occurs on property located in whole or in part in:

(I) an enterprise zone as defined in § 5-701 of the economic development article of the annotated code of Maryland;

(II) a Baltimore county commercial revitalization district; or

(III) a Maryland opportunity zone.
(7) PRIVATE PRIMARY AND SECONDARY EDUCATION SCHOOLS, PRIVATE NON-PROFIT UNIVERSITIES, PRIVATE NON-PROFIT COLLEGES, AND PUBLIC OR PRIVATE NON-PROFIT HOSPITALS.

(8) STATE-DESIGNATED TRANSIT ORIENTED DEVELOPMENTS.

(9) RESIDENTIAL DEVELOPMENT ON PROPERTIES AND FACILITIES, PUBLIC OR PRIVATE, ELIGIBLE TO BE CONSIDERED AS STATE HOSPITAL REDEVELOPMENT UNDER THE MD ECONOMIC DEVELOPMENT CODE (2017 REVISION), TITLE 12 LOCAL DEVELOPMENT AUTHORITIES & RESOURCES, SUBTITLE 2 TAX INCREMENT FINANCING ACT, SECTION 201 DEFINITIONS, ITEM (Q) STATE HOSPITAL REDEVELOPMENT, SUBITEMS (1) (I) AND (II).

(10) RESIDENTIAL DEVELOPMENT OWNED BY CORPORATE ENTITIES ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS PURPOSES WITHIN THE MEANING OF 26 U.S.C. § 501 AND USED PRIMARILY FOR RELIGIOUS PURPOSES.

(I) ANNUAL REPORT.

(1) BEGINNING ON JULY 1, 2021 AND ANNUALLY THEREAFTER, THE PLANNING BOARD, IN CONSULTATION WITH THE DIRECTORS OF THE OFFICE OF BUDGET AND FINANCE, DEPARTMENT OF PUBLIC WORKS, DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS, AND DEPARTMENT OF PLANNING, SHALL PROVIDE NO LATER THAN APRIL 15, AN ANNUAL REPORT TO THE COUNTY COUNCIL OF:
(I) THE AMOUNT OF DEVELOPMENT FEES ASSESSED AND

COLLECTED BY DEVELOPMENT IMPACT FEE DISTRICT; AND

(II) THE AMOUNT OF CREDITS, EXEMPTIONS, AND REBATES GIVEN

OR COLLECTED.

(2) THE REPORT SHALL INCLUDE:

(I) THE NAME OF EACH DEVELOPMENT PROJECT;

(II) THE ADDRESS AND COUNCILMANIC DISTRICT AND

DEVELOPMENT FEE DISTRICT IN WHICH THE PROJECT IS LOCATED;

(III) THE NUMBER AND TYPE OF DEVELOPMENT UNITS TO BE

CONSTRUCTED;

(IV) THE AMOUNT OF FEE COLLECTED FOR SUCH PROJECTS; AND

(VI) AN ACCOUNTING OF REVENUES FOR EACH COUNCILMANIC

DISTRICT AND DEVELOPMENT IMPACT FEE DISTRICT AND CORRESPONDING

APPROPRIATIONS.

(3) THE ANNUAL REPORT MAY ALSO INCLUDE ANY OR ALL OF THE

FOLLOWING:

(I) RECOMMENDATIONS FOR AMENDMENTS, IF APPROPRIATE, TO

THIS SECTION IN ORDER TO IMPROVE THE DEVELOPMENT IMPACT FEES

PROGRAM IN THE COUNTY;

(II) PROPOSED CHANGES TO THE COUNTY’S CAPITAL

IMPROVEMENTS PROGRAM, INCLUDING THE IDENTIFICATION OF ADDITIONAL
PUBLIC FACILITY PROJECTS ANTICIPATED TO BE FUNDED WHOLLY OR
PARTIALLY WITH DEVELOPMENT IMPACT FEES;

(III) PROPOSED CHANGES TO THE BOUNDARIES OF DEVELOPMENT
IMPACT FEE DISTRICTS, IF APPLICABLE;

(IV) PROPOSED CHANGES TO THE AMOUNT OF THE DEVELOPMENT
IMPACT FEE;

(V) PROPOSED CHANGES TO THE CALCULATION OF THE
DEVELOPMENT IMPACT FEE; AND

(VI) ANY OTHER DATA, ANALYSIS OR RECOMMENDATIONS
RELATED TO THE DEVELOPMENT IMPACT FEE PROGRAM.

(4) THE REPORT SHALL BE POSTED ON THE PLANNING BOARD PAGE OF
THE DEPARTMENT OF PLANNING INTERNET WEBSITE.

SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall not apply to any
development or construction project for which the filing of the following has occurred prior to
July 1, 2020: a concept plan; a request for limited exemption or waiver; a development plan and
any subsequent amendments thereto; an application for a Planned Unit Development; or an
application for a permit..

SECTION 3. AND BE IT FURTHER ENACTED, that this Act shall have no application
to any development which has vested prior to July 1, 2020, or to any subsequent amendments to
a vested project.
SECTION 4. AND BE IT FURTHER ENACTED, that neither the Development Impact Surcharge nor the Development Impact Fee under this Act may be imposed prior to January 1, 2021 on new construction related to the development or redevelopment of land used as a country club for which a concept plan has been submitted and which is located inside the urban-rural demarcation line.”

SECTION 5. AND BE IT FURTHER ENACTED, that this Act shall take effect 45 days from the date of enactment.