AN ACT amending the Howard County Code to remove the Adequate Public Facilities Ordinance’s exemption for Conditionally Exempt Residential Subdivision Plans; and generally relating to Adequate Public Facilities Ordinance Exemptions.
Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard County Code is amended as follows:

By amending:

Title 16. “Planning, Zoning and Subdivisions and Land Development Regulations”

Subtitle 11. “Adequate Public Facilities”

Section. 16.1107. “Exemptions.”

HOWARD COUNTY CODE

Title 16 - Planning, Zoning and Subdivisions and Land Development Regulations

Subtitle 11. – Adequate Public Facilities

Section. 16.1107. – Exemptions.

(a) Nonresidential Projects:

(1) Exempt nonresidential subdivision plans. The following nonresidential subdivisions are exempt from the requirement to pass the test for adequate road facilities as a condition of subdivision approval:

(i) A nonresidential resubdivision (see: Subdivision regulations).

(ii) An exempt governmental facility.

(iii) A nonresidential final subdivision plan pending on the effective date of this subtitle, April 10, 1992, provided that the plan proceeds to recordation in accordance with the subdivision regulations.

(iv) A subdivision that does not generate additional traffic.

(2) Exempt nonresidential site development plans:
(i) A site development plan for an exempt government facility is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.

(ii) A site development plan which does not generate additional traffic is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval.

(iii) If the project is on a parcel which was zoned nonresidential on the effective date of this subtitle and has not previously passed the roads test during the subdivision process, a nonresidential site development plan submitted within seven years after the effective date of this subtitle, April 10, 1992 is exempt from the requirement to pass the test for adequate road facilities as a condition of site development plan approval. However, if the floor area ratio on the lot exceeds the following:

| Industrial/manufacturing/warehousing | 0.45 |
| Office/research and development      | 0.35 |
| Retail/service                      | 0.25 |
| New town/town center village        | 1.0  |

The site development plan shall be required to pass the test for adequate road facilities for the excess floor area.

(3) Conditionally exempt nonresidential subdivision plans. Nonresidential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval, provided that the sketch plan was approved before the effective date of this subtitle, April 10, 1992. This exemption is conditional upon the project continuing to meet required milestones (see: Section 16.1106, "Milestones").
(b) Residential Projects:

(1) Exempt residential plans. The following residential subdivisions and site development plans are exempt from the requirement to pass the test for adequate road facilities and the requirement to pass the tests for allocations and adequate public school facilities as a condition of approval:

(i) Parcel divisions (see: Subdivision regulations).

(ii) Subdivisions in agricultural preservation easements for dwellings of the owner or the owner's children or other dwelling lots permitted on agricultural preservation easements.

(iii) Residential resubdivisions (see: Subdivision regulations) which do not increase the number of housing units allowed.

(iv) Residential final subdivision plans pending on the effective date of this subtitle, provided that the plan proceeds to recordation in accordance with the subdivision regulations.

(v) Minor subdivision plans and resubdivisions, located in RC and RR zoning districts outside of the planned service area boundary for water and sewer, which create the potential for only one additional dwelling unit from a lot existing on April 10, 1992.

(vi) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit to be conveyed to an immediate family member or members from a lot existing on April 10, 1992 provided that the following conditions are met:

a. The property owner must have owned the property for a minimum of three years before requesting subdivision; and

b. The family member must be either a parent, child, or sibling. The term immediate family member does not include step-parents, step-children, or step-siblings; and

c. The property owner shall not seek further subdivision of the property or another family member exemption for a period of three years; and
d. The granting of this family member exemption shall prohibit the property owner from seeking a hardship exemption.

A maximum of three family member exemptions per year per planning area may be granted by the Department of Planning and Zoning. Subject to section 22.1000 of the County Code, the Department of Planning and Zoning shall annually prepare a home ownership report on this exemption for the Council.

(vii) Minor subdivision plans and resubdivisions which create the potential of only one additional dwelling unit from an adjoining lot existing before April 10, 1992, for property owners with economic hardships. Upon the property owner's written request to the Department of Planning and Zoning, the County Council may approve by resolution a hardship exemption. The property owner shall state in the request to the Department of Planning and Zoning the severe economic hardship that the property owner is sustaining and provide the following evidence, which shall be forwarded by the Department to the County Council with a recommendation concerning the exemption:

a. Verification of ownership of the property to be subdivided for at least three years before the submittal of the economic hardship exemption request; and

b. A recent financial statement that shows the property owner's complete assets and liabilities supported by an affidavit of the property owner; and

c. Other information regarding the severe economic hardship that the property owner is sustaining, including but not limited to information from lenders, lien holders, creditors, attorneys, tax collectors or other third parties who have knowledge as to the economic condition of the property owner; and

d. Any notice of foreclosure on the property; and

e. Any medical bills that are not covered by health insurance for a medical condition/treatment of the property owner or immediate family member of the property owner. For purposes of this section, the immediate family member shall
be either a spouse, parent, child, or sibling but shall not include step-parents, step-children or step-siblings; and

f. Any other evidence that the property owner has no other reasonable means of relieving that economic hardship.

The granting of this hardship exemption shall prohibit the property owner from seeking a family member exemption.

(2) Partially exempt residential subdivision plans. Minor subdivision plans are exempt from the requirement to pass the test for adequate road facilities as a condition of plan approval. However, minor subdivision plans are required to pass the tests for allocations and adequate public school facilities as a condition of subdivision approval.

(3) Exempt residential site development plans. Residential site development plans for single-family attached and detached housing on recorded lots that existed on April 10, 1992 are exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and adequate public school facilities as a condition of site development plan approval.

(4) Partially exempt mobile home park site development plans:

(i) Residential site development plans for mobile home parks are exempt from the requirement to pass the test for allocations to the extent that the mobile home park site development plan is replacing units from a mobile home park abandoned or permanently closed after January 1, 2000. If the number of units in a mobile home park site development plan exceeds the number of replacement units available, the number of units exceeding the available replacement units shall be tested for allocations in accordance with section 16.1104 of this subtitle. The Department of Planning and Zoning shall keep a record of the number of mobile home park units abandoned and replaced and shall reassign the replacement units to projects, at the time of site development plan approval, in the order of site plan approval dates.

(ii) Residential site development plans for mobile home parks to which replacement units have been reassigned in accordance with subsection (i) above are exempt from
the adequate public school facilities test for the number of replacement units reassigned if the site development plan for the mobile home park is located in the same elementary and middle school districts as the abandoned or permanently closed mobile home park from which the units were reassigned. If the number of units proposed on the site development plan exceeds the number of reassigned units available, or if the site development plan includes reassigned units from a different elementary and/or middle school district, the excess units receiving allocations as required in subsection (i) above, and the reassigned units from a different elementary and/or middle school district, as the case may be, shall be subject to the adequate public school facilities tests. If the proposed mobile home park is located in a different elementary and/or middle school district, the site development plan must pass the appropriate adequate public school facility test(s) for all units approved on the site development plan.

(5)  Partially exempt multifamily residential site development plans:

(i)  Exemption from tests for adequate public schools. Residential site development plans for multifamily projects which cannot generate children, such as age-restricted adult housing, are exempt from the requirement to pass the tests for adequate school facilities as a condition of site development plan approval. Except as provided in subparagraph (iii) of this paragraph, these plans are required to pass the test for allocations and for adequate road facilities as a condition of site development plan approval.

(ii) Exemption from tests for allocations and adequate public schools. Nursing and residential care facilities are exempt from the requirement to pass tests for allocations and for adequate public schools as a condition of site development plan approval. These plans are required to pass the adequate road facilities test as a condition of site development plan approval.

(6)  Conditionally exempt residential subdivision plans. Residential subdivision plans are conditionally exempt from the requirement to pass the test for adequate road facilities and the tests for allocations and for adequate school facilities as a condition of plan approval,
provided that the sketch plan was approved before the effective date of this subtitle, this
exemption is conditional upon the project continuing to meet required milestones (see:
Section 16.1106, "Milestones").]]

([[7]]6) Partially exempt residential redevelopment plans. Residential redevelopment
involving a subdivision plan or site development plan is exempt from the allocations.
Adequate public schools, and roads tests to the extent that the redevelopment will not
increase:

(i) The number of existing housing units on the site;

(ii) The number of housing units allowed under paragraph (3) of this subsection; or

(iii) If the redevelopment is of a mobile home park licensed under subtitle 5 of this
title, the number of mobile home sites permitted under the license.

Existing units being replaced must have been occupied on a full-time basis for at least
30 days in the year prior to submission of the subdivision or site development plan for
redevelopment of the site. If the number of units on the redevelopment plan exceeds the
number of existing units, the additional units shall pass the allocations, adequate public
schools and roads tests as a condition of plan approval.

([[8]]7) Partially exempt residential subdivision plans. Except in Downtown Columbia,
moderate income housing units do not require housing unit allocations. However, plans
with moderate income housing units are required to pass the test for adequate road
facilities and adequate public schools as a condition of approval. The number of moderate
income housing units in each plan that do not require housing unit allocations subject to
this exemption shall not exceed the number of moderate income housing units as required
in the Howard County Zoning Regulations.

([[9]]8) Partially exempt urban renewal residential subdivision or site development plans;
Test for adequate school facilities. Residential units that are part of an Urban Renewal
project, as designated by title 13, subtitle 11 of this Code, are exempt from the
requirement to pass the test for adequate school facilities as a condition of subdivision or
site development plan approval.
Section 2. Be It Further Enacted by the County Council of Howard County, Maryland, that any conditionally exempt residential subdivision plans previously covered by Section 16.1107(b)(6) that has not received Site Development Plan approval prior to September 24, 2020 shall be subject to all Adequate Public Facilities testing provisions of Section 16.1100 of the Code.

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