

Introduced 09.06.2022
Public Hearing 09.19.2022
Council Action 10.31.2022
Executive Action 11.09.2022
Effective Date 01.09.2023

County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 13

Bill No. 58 -2022

Introduced by: Liz Walsh

AN ACT to set the rate of the Public School Facilities Surcharge for certain addition construction; and generally relating to the public school facilities surcharge.

Introduced and read first time Sept 6, 2022. Ordered posted and hearing scheduled.

By order

Michelle R. Harrod
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on Sept 19, 2022.

By order

Michelle R. Harrod
Michelle R. Harrod, Administrator

This Bill was read the third time on Oct 31, 2022 and Passed ✓, Passed with amendments ✓, Failed .

By order

Michelle R. Harrod
Michelle R. Harrod, Administrator

Scaled with the County Seal and presented to the County Executive for approval this 1 day of Nov, 2022 at 4:00 a.m./p.m.

By order

Michelle R. Harrod
Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive November 9, 2022

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.

Tabled 10.3.2022 Michelle R. Harrod

1 **Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard County**
2 **Code is hereby amended as follows:**

3 *By amending:*

4 *Title 20 – Taxes, Charges, and Fees*

5 *Subtitle 1. – Real Property Tax; Administration, Credits, and Enforcement.*

6 *Section 20.142. – [Surcharge enacted.]*

7
8 **HOWARD COUNTY CODE**

9 **Title 20 – Taxes, Charges, and Fees**

10 **Subtitle 1 – Real Property Tax; Administration, Credits, and Enforcement**

11 **Sec. 20.143. Surcharge imposed.**

12 (a) Chapter 744 of the Acts of the General Assembly of 2019, set forth in section 20.142 of the
13 Howard County Code, requires that the County Council impose a school facilities surcharge
14 on residential new construction for which a building permit is issued on or after July 1,
15 2004, with the revenue from the surcharge to be used to pay for additional or expanded
16 public school facilities such as renovations to existing school buildings or other systemic
17 changes, debt service on bonds issued for additional or expanded public school facilities, or
18 new school construction.

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

23 (i) Classified as senior housing; and

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

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

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

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

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

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

7 1. classified as senior housing under 42 U.S.C. § 3607(b); OR

8 2. ADDITION CONSTRUCTION, MEANING CONSTRUCTION OF AN ADDITION TO
9 A BUILDING WHERE THE WORK REQUIRES A HOWARD COUNTY BUILDING PERMIT AND WHERE
10 THE ADDITION EITHER:

11 A. INCREASES THE NUMBER OF GROSS SQUARE FEET OF OCCUPIABLE
12 NONRESIDENTIAL STRUCTURE ON THE PROPERTY; OR

13 B. INCREASES THE NUMBER OF GROSS SQUARE FEET OF OCCUPIABLE
14 RESIDENTIAL STRUCTURE ON THE PROPERTY BY 2,000 SQUARE FEET OR LESS AND ADDITION
15 CONSTRUCTION OF MORE THAN 2,000 SQUARE FEET SHALL BE ASSESSED A RATE UNDER
16 SUBSECTION (B)(2) OF THIS SECTION FOR THE ENTIRE ADDITION SQUARE FEET OF THE
17 ADDITION THAT IS MORE THAN 2,000 SQUARE FEET.

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

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

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

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

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

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

8 (4) The rate established in paragraph (2) of this subsection shall be adjusted for
9 inflation in accordance with the Consumer Price Index for All Urban Consumers published
10 by the United States Department of Labor, for the fiscal year preceding the year for which
11 the 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 ~~**Section 2.** Be it further enacted by the County Council of Howard County, Maryland, that this Act shall be~~
17 ~~constructed to apply retroactively and shall be applied to and affect any residential new construction~~
18 ~~for which the applicant filed the application for the building permit on or after January 1, 2022.~~

19 ~~**Section 3. 2.** Be it further enacted by the County Council of Howard County, Maryland, that this Act shall~~
20 ~~become effective 61 days after its enactment.~~

Amendment 1 to Council Bill No. 58-2022

BY: Liz Walsh

Legislative Day 14

Date: October 3, 2022

Amendment No. 1

(This amendment clarifies that accessory apartments and two-family dwellings are excluded from the list of construction that is assessed a Public School Facilities Surcharge rate of \$1.32 per square foot of occupiable area. This amendment also clarifies that the construction of two or more bedrooms in an existing structure is excluded from the list of construction that is assessed a Public School Facilities Surcharge rate of \$1.32 per square foot of occupiable area.)

On page 2, after line 14, insert:

"C. ADDITION CONSTRUCTION DOES NOT INCLUDE THE CONSTRUCTION OF ACCESSORY APARTMENTS AND TWO-FAMILY DWELLINGS.

D. ADDITION CONSTRUCTION DOES NOT INCLUDE THE CONSTRUCTION OF TWO OR MORE BEDROOMS, AS DEFINED IN SECTION 3.801(B) OF THE COUNTY CODE, IN AN EXISTING STRUCTURE."

I certify this is a true copy of

Am 1 to CB 58-2022

~~passed on~~ 10-31-2022

Nicholas Cherred
Council Administrator

Rescinded

Amendment 1 to Amendment No. 1 to Council Bill No. 58-2022

BY: David Yungmann

**Legislative Day 14
Date: October 3, 2022**

Amendment No. 1

(This amendment clarifies that addition construction does not include the construction of two or more bedrooms in an existing structure.)

1 On page 1, in the third line of the parenthetical, after the period, insert "*This amendment also*
2 *clarifies that the construction of two or more bedrooms in an existing structure is excluded from*
3 *the list of construction that is assessed a Public School Facilities Surcharge rate of \$1.32 per*
4 *square foot of occupiable area.*".

5
6 On page 1, in line 3, after "DWELLINGS.", insert:

7
8 "D. ADDITION CONSTRUCTION DOES NOT INCLUDE THE CONSTRUCTION OF TWO OR
9 MORE BEDROOMS, AS DEFINED IN SECTION 3.801(B) OF THE COUNTY CODE, IN AN EXISTING
10 STRUCTURE.".

I certify this is a true copy of

Am 1 to Am 1 to CB 58-2022
passed on October 31, 2022

Michelle Howard
Council Administrator

Rescinded

Amendment 2 to Council Bill No. 58-2022

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 14
Date: October 3, 2022**

Amendment No. 2

(This amendment adds a square footage cap to the definition of addition construction and provides that an addition that is more than 2,000 square feet shall be assessed a rate of \$1.32 for the first 2,000 square feet and a rate of \$7.50 for the square feet of the addition that is more than 2,000 square feet.)

- 1 On page 2, in line 14, after "PROPERTY" insert "BY 2,000 SQUARE FEET OR LESS AND
- 2 ADDITION CONSTRUCTION OF MORE THAN 2,000 SQUARE FEET SHALL BE ASSESSED A RATE
- 3 UNDER SUBSECTION (B)(2) OF THIS SECTION FOR THE ENTIRE ADDITION SQUARE FEET OF THE
- 4 ADDITION THAT IS MORE THAN 2,000 SQUARE FEET".

I certify this is a true copy of

Am 2 to CB 52-2022

passed on October 31, 2022

Michelle Chavez
Council Administrator

Amendment 1 to Amendment No. 2 to Council Bill No. 58-2022

BY: Christiana Rigby

**Legislative Day 14
Date: October 3, 2022**

Amendment No. 1

(This amendment provides that an addition that is more than 2,000 square feet shall be assessed a rate of \$1.32 for the first 2,000 square feet and a rate of \$7.50 for the square feet of the addition that is more than 2,000 square feet.)

- 1 On page 1, in the parenthetical, after “construction”, insert “and provides that an addition that is
2 more than 2,000 square feet shall be assessed a rate of \$1.32 for the first 2,000 square feet and a
3 rate of \$7.50 for the square feet of the addition that is more than 2,000 square feet”.
- 4
- 5 On page 1, in line 3, strike “ENTIRE ADDITION”; and substitute “SQUARE FEET OF THE ADDITION
6 THAT IS MORE THAN 2,000 SQUARE FEET”.

I certify this is a true copy of

Am 1 to Am 2 to CB 58-2022
passed on October 31, 2022

Michelle Howard
Council Administrator

Amendment 2 to Amendment No. 2 to Council Bill No. 58-2022

BY: Deb Jung

**Legislative Day 15
Date: October 31, 2022**

Amendment No. 2

(This amendment provides that an addition that is more than 1,000 square feet shall be assessed a rate of \$1.32 for the first 1,000 square feet and a rate of \$7.50 for the square feet of the addition that is more than 1,000 square feet.)

On page 1, in the parenthetical, after “construction”, insert “and provides that an addition that is more than 1,000 square feet shall be assessed a rate of \$1.32 for the first 1,000 square feet and a rate of \$7.50 for the square feet of the addition that is more than 1,000 square feet”.

On page 1:

- in line 1, strike “2,000” and substitute “1,000”;
- in line 2, strike “2,000” and substitute “1,000”;
- in line 3, strike “ENTIRE ADDITION” and substitute “SQUARE FEET OF THE ADDITION THAT IS MORE THAN 1,000 SQUARE FEET”.

I certify this is a true copy of

Am 2 to Am 2 to CB 58-2022

passed on October 31, 2022

Michelle Howard
Council Administrator

Failed

Amendment 3 to Council Bill No. 58-2022

BY: The Chairperson at the request
of the County Executive

Legislative Day 14
Date: October 3, 2022

Amendment No. 3

(This amendment strikes the retroactive application of this Act.)

- 1 On page 3, strike lines 11 through 13, inclusive and in their entirety.
- 2
- 3 On page 3, in line 14, strike "3" and substitute "2".

I certify this is a true copy of

Am 3 to CB 58 - 2022
passed on October 31, 2022

*Failed
after Reconsideration*

Michelle Storr
Council Administrator

Amendment 4 to Council Bill No. 58-2022

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 15
Date: October 31, 2022**

Amendment No. 4

(This amendment clarifies language related to the reimbursement of fees already paid.)

- 1 On page 3, in line 13, strike "*filed the application*" and substitute "*paid the school facilities*
- 2 *surcharge*".

I certify this is a true copy of

Am 4 to CB 58-2022

passed on October 31, 2022

Failed

Michael D. Dwyer
Council Administrator

Amendment 5 to Council Bill No. 58-2022

**BY: Opel Jones,
Deb Jung
Christiana Rigby
Liz Walsh
David Yungmann**

**Legislative Day 14
Date: October 31, 2022**

Amendment No. 5

(This amendment strikes the retroactive application of this Act.)

- 1 On page 3, strike lines 11 through 13. On the same page, in line 14, strike "3." and substitute
2 "2".

I certify this is a true copy of
Am 5 to CB 58-2022
passed on October 31, 2022
Marilyn D. Hazzard
Council Administrator

Introduced 09.06.2022
Public Hearing 09.19.2022
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 13

Bill No. 58-2022

Introduced by: Liz Walsh

AN ACT to set the rate of the Public School Facilities Surcharge for certain addition construction; and generally relating to the public school facilities surcharge.

Introduced and read first time Sept 6, 2022. Ordered posted and hearing scheduled.

By order

Michelle Harrod
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on Sept 19, 2022.

By order

Michelle Harrod
Michelle R. Harrod, Administrator

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

By order

Michelle R. Harrod, Administrator

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

By order

Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2022

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; Text in small capitals indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

Tabled 10-3-2022 Michelle Harrod

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County
2 Code is hereby amended as follows:

3 By amending:

4 Title 20 – Taxes, Charges, and Fees

5 Subtitle 1. – Real Property Tax; Administration, Credits, and Enforcement.

6 Section 20.142. – [Surcharge enacted.]

7
8 **HOWARD COUNTY CODE**

9 **Title 20 – Taxes, Charges, and Fees**

10 **Subtitle 1 – Real Property Tax; Administration, Credits, and Enforcement**

11 **Sec. 20.143. Surcharge imposed.**

12 (a) Chapter 744 of the Acts of the General Assembly of 2019, set forth in section 20.142 of the
13 Howard County Code, requires that the County Council impose a school facilities surcharge
14 on residential new construction for which a building permit is issued on or after July 1,
15 2004, with the revenue from the surcharge to be used to pay for additional or expanded
16 public school facilities such as renovations to existing school buildings or other systemic
17 changes, debt service on bonds issued for additional or expanded public school facilities, or
18 new school construction.

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

23 (i) Classified as senior housing; and

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

25 Code.

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

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

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

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

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

7 1. classified as senior housing under 42 U.S.C. § 3607(b); OR

8 2. ADDITION CONSTRUCTION, MEANING CONSTRUCTION OF AN ADDITION TO
9 A BUILDING WHERE THE WORK REQUIRES A HOWARD COUNTY BUILDING PERMIT AND WHERE
10 THE ADDITION EITHER:

11 A. INCREASES THE NUMBER OF GROSS SQUARE FEET OF OCCUPIABLE
12 NONRESIDENTIAL STRUCTURE ON THE PROPERTY; OR

13 B. INCREASES THE NUMBER OF GROSS SQUARE FEET OF OCCUPIABLE
14 RESIDENTIAL STRUCTURE ON THE PROPERTY.

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

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

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

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

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

27 (iii) The surcharge is one-third of the rate set under paragraph (2) of this subsection
28 for non-senior residential new construction projects that have received funding from the

1 State of Maryland or from the County as an affordable housing project after December 31,
2 2020.

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

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

10
11 ***Section 2. Be it further enacted*** by the County Council of Howard County, Maryland, that this Act shall be
12 *constructed to apply retroactively and shall be applied to and affect any residential new construction*
13 *for which the applicant filed the application for the building permit on or after January 1, 2022.*

14 ***Section 3. Be it further enacted*** by the County Council of Howard County, Maryland, that this Act shall
15 *become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 58-2022

BY: Liz Walsh

Legislative Day 14

Date: October 3, 2022

Amendment No. 1

(This amendment clarifies that accessory apartments and two-family dwellings are excluded from the list of construction that is assessed a Public School Facilities Surcharge rate of \$1.32 per square foot of occupiable area.)

1 On page 2, after line 14, insert:

2 "C. ADDITION CONSTRUCTION DOES NOT INCLUDE THE CONSTRUCTION OF
3 ACCESSORY APARTMENTS AND TWO-FAMILY DWELLINGS.".

I certify this is a true copy of

passed on

Council Administrator

Rescinded

Amendment 2 to Council Bill No. 58-2022

BY: The Chairperson at the request
of the County Executive

Legislative Day 14
Date: October 3, 2022

Amendment No. 2

(This amendment adds a square footage cap to the definition of addition construction.)

- 1 On page 2, in line 14, after "PROPERTY" insert "BY 2,000 SQUARE FEET OR LESS AND
- 2 ADDITION CONSTRUCTION OF MORE THAN 2,000 SQUARE FEET SHALL BE ASSESSED A RATE
- 3 UNDER SUBSECTION (B)(2) OF THIS SECTION FOR THE ENTIRE ADDITION".

I certify this is a true copy of

passed on

Council Administrator

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on Nov 9, 2022.

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 _____, 2022.

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 _____, 2022.

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 _____, 2022.

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 _____, 2022.

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 _____, 2022.

Michelle Harrod, Administrator to the County Council