

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

## County Council of Howard County, Maryland

2025 Legislative Session

Legislative Day No. 3

### Bill No. 18 -2025

Introduced by: Christiana Rigby

SHORT TITLE: Transit Orient Development (TOD) – Residential Units Exemptions

AN ACT Amending the definition of “Moderate income housing units”, establishing and retaining the School Surcharge rate at time of submittal of sketch plan; providing for a Payment in Lieu of Taxes (PILOT) for Disability Income Housing Units within a Transit Oriented Development (TOD); and exempting Transit Oriented Development (TOD) residential units from the Adequate Public Facilities Ordinance School Capacity Test and generally relating to Transit Oriented Developments.

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Introduced and read first time \_\_\_\_\_, 2025. Ordered posted and hearing scheduled.

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

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2025.

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

This Bill was read the third time on \_\_\_\_\_, 2025 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 \_\_\_\_\_, 2025 at \_\_\_ a.m./p.m.

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

Approved by the County Executive \_\_\_\_\_, 2025

\_\_\_\_\_  
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, The County recognizes the urgent need for accessible and affordable housing, as  
2 the current supply shortage, estimated by Maryland’s Department of Housing and Community  
3 Development in June 2024 to be at 96,000 housing units in the state, has contributed to a housing  
4 affordability crisis that disproportionately impacts low- and moderate-income residents; and  
5

6 **WHEREAS**, The State of Maryland has enacted legislation, including **HB538-2025**, to promote  
7 transit-oriented development and require local jurisdictions to align zoning and land-use policies  
8 with state-level priorities for smart growth and increased housing supply; and  
9

10 **WHEREAS**, RCLCO Real Estate Advisors conducted a Market Research and Demand Forecast  
11 to inform *HoCo By Design* and identified projected demands of 31,000 new homes as well as a  
12 current “pent up” demand of about 20,000 housing units for a total of over 50,000 new housing  
13 units over the next 20 years in Howard County; and  
14

15 **WHEREAS**, Howard County’s General Plan, *HoCo By Design*, approved in 2024, highlights  
16 “Transit Activity Centers” as an “Area to Transform” and includes policy statements that  
17 encourage development in activity centers, including policy statements DN-1, DN-4, and DN-8,  
18 and several policy statements within the Route 1 Corridor Plan; and  
19

20 **WHEREAS**, This legislation provides clarity and certainty for builders and community  
21 stakeholders by **streamlining approval processes** for qualified Transit-Oriented Development  
22 projects, ensuring that new housing can be delivered efficiently and in accordance with state and  
23 county legislative mandates; and  
24

25 **WHEREAS**, This measure will contribute to the County’s Moderate-Income Housing Unit  
26 (MIHU) and Disability Income Housing Unit (DIHU) inventory, expanding critical housing  
27 opportunities for residents across various income levels and ensuring a more inclusive and  
28 diverse community, as encouraged in Policy Statements DN-4, DN-6, DN-7, DN-8, DN-12, and  
29 DN-13 of *HoCo By Design*; and  
30

1 **WHEREAS**, Encouraging smart growth and responsible development in designated Transit-  
2 Oriented Development (TOD) areas is a key strategy for addressing the housing shortage and  
3 supports broader economic and environmental goals in promoting sustainable, walkable  
4 communities with access to public transit; and  
5

6 **WHEREAS**, In September 2024, Howard County’s Department of Planning and Zoning  
7 analyzed data for the Howard County Public School System on student yield and concluded that  
8 in their Pupil Yield Report, of all styles of housing, multifamily housing, which is generally  
9 favored in Transit Oriented Developments, produces between 0.16 and 0.38 pupils per unit,  
10 significantly less than other housing types; and  
11

12 **WHEREAS**, Denser residential housing expands the assessable base for Howard County,  
13 providing higher sales and property tax revenues that can support priorities such as education,  
14 health and safety, and the connectivity of people and places; and  
15

16 **WHEREAS**, Incentives that encourage development in Transit-Oriented Developments (TODs)  
17 align with local and state smart growth priorities, expand housing opportunities for all, and  
18 enhance the County’s long-term fiscal health and quality of life.  
19

20 *Section 1. Now, Therefore, Be It Enacted* by the County Council of Howard County, Maryland, that the  
21 *Howard County Code is amended as follows:*  
22

23 *By Amending:*  
24 *Title -.13 Housing and Community Development*  
25 *Subtitle – 4. Moderate Income Housing Units*  
26 *Section 13.401.- Definitions*  
27

28  
29 *By amending:*  
30 *Title -.13 Housing and Community Development*  
31 *Subtitle – 4. Moderate Income Housing Units*

1 *Section. 13.402 Development Procedures; moderate income housing unit*  
2 *agreement; alternative.*

3 *By amending:*

4 *Title – 16 Planning, Zoning and Subdivisions and Land Development Regulations*

5 *Subtitle 11.- Adequate Public Facilities*

6 *Section. 16.1107. Exceptions*

7 *By amending:*

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

9 *Subtitle 1.- Real Property Tax; Administration, Credits, and Enforcement*

10 *Part VI. – Public School Facilities Surcharge*

11 *Section. 20.143. – Surcharge Imposed*

12  
13 **Title 13 - Housing and Community Development**

14 **SUBTITLE 4. – Moderate Income Housing Units**

15  
16 **Sec. 13.401. Definitions.**

17 (a) *In General.* In this subtitle, the following words have the meanings indicated:

18 (p) *Moderate income housing unit* (MIHU) means a dwelling unit offered for sale or rent to  
19 households with moderate incomes. **MODERATE INCOME HOUSING UNITS SHALL INCLUDE**  
20 **DISABILITY INCOME HOUSING UNITS AS DEFINED UNDER THIS SECTION.**

21 (q) *Moderate income housing unit offered for sale* means a unit that is built on a subdivided lot  
22 or subject to a condominium regime, as provided in a moderate income housing unit  
23 agreement under subsection 13.402(b) of this subtitle. **MODERATE INCOME HOUSING UNITS**  
24 **OFFERED FOR SALE SHALL INCLUDE DISABILITY INCOME HOUSING UNITS AS DEFINED UNDER**  
25 **THIS SECTION.**

26 **Sec. 13.402. Development procedures; moderate income housing unit agreement;**  
27 **alternative.**

28 (n) *TOD (Transit Oriented Development) and PGCC (Planned Golf Course Community)—*  
29 *Moderate Income Housing Unit Requirements.*

1 (1) Notwithstanding any other provision of this subtitle, a developer of a TOD (Transit  
2 Oriented Development) or a PGCC (Planned Golf Course Community) district site  
3 shall provide the moderate income housing units required under the zoning regulations,  
4 or disability income housing units or low income housing units as part of an optional  
5 method of compliance, as part of the development on the site of the development  
6 project.

7 (2) The developer shall not:

8 (i) Provide the moderate housing income units at a different location;

9 (ii) Pay a fee-in-lieu of to the Department of Housing and Community Development;

10 (iii) Use an optional method as provided under subsection (e)(1)(i) of this section; or

11 (iv) Use alternative compliance to optional methods as provided under subsection (f)  
12 of this section.

13 (3) **DISABILITY INCOME HOUSING UNITS; PAYMENT IN LIEU OF TAXES (PILOT).**

14 **IN A TOD (TRANSIT ORIENTED DEVELOPMENT) RESIDENTIAL DEVELOPMENT A DEVELOPER**  
15 **IS ELIGIBLE TO ENTER INTO A PILOT WITH THE COUNTY PURSUANT TO SECTION 7-521 OF**  
16 **THE MARYLAND TAX-PROPERTY ARTICLE IF 15% OF DWELLING UNITS ARE DISABILITY**  
17 **INCOME HOUSING UNITS.**

18  
19  
20 **Title 16 – Planning, Zoning and Subdivisions and Land Development Regulations**

21 **SUBTITLE 11. – Adequate Public Facilities**

22 **Sec. 16.1107. Exemptions.**

23 (b) *Residential Projects:*

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

- 1 (i) Parcel divisions (see: Subdivision regulations).
- 2 (ii) Subdivisions in agricultural preservation easements for dwellings of the owner or  
3 the owner's children or other dwelling lots permitted on agricultural preservation  
4 easements.
- 5 (iii) Residential resubdivisions (see: Subdivision regulations) which do not increase  
6 the number of housing units allowed.
- 7 (iv) Residential final subdivision plans pending on the effective date of this subtitle,  
8 provided that the plan proceeds to recordation in accordance with the subdivision  
9 regulations.
- 10 (v) Minor subdivision plans and resubdivisions, located in RC and RR zoning  
11 districts outside of the planned service area boundary for water and sewer, which  
12 create the potential for only one additional dwelling unit from a lot existing on  
13 April 10, 1992.
- 14 (vi) Minor subdivision plans and resubdivisions which create the potential of only one  
15 additional dwelling unit to be conveyed to an immediate family member or  
16 members from a lot existing on April 10, 1992 provided that the following  
17 conditions are met:
- 18 a. The property owner must have owned the property for a minimum of three years  
19 before requesting subdivision; and
- 20 b. The family member must be either a parent, child, or sibling. The term immediate  
21 family member does not include stepparents, step-children, or step-siblings; and
- 22 c. The property owner shall not seek further subdivision of the property or another  
23 family member exemption for a period of three years; and
- 24 d. The granting of this family member exemption shall prohibit the property owner  
25 from seeking a hardship exemption.

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

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

- 10 a. Verification of ownership of the property to be subdivided for at least three years  
11 before the submittal of the economic hardship exemption request; and
- 12 b. A recent financial statement that shows the property owner's complete assets and  
13 liabilities supported by an affidavit of the property owner; and
- 14 c. Other information regarding the severe economic hardship that the property  
15 owner is sustaining, including but not limited to information from lenders, lien  
16 holders, creditors, attorneys, tax collectors or other third parties who have  
17 knowledge as to the economic condition of the property owner; and
- 18 d. Any notice of foreclosure on the property; and
- 19 e. Any medical bills that are not covered by health insurance for a medical  
20 condition/treatment of the property owner or immediate family member of the  
21 property owner. For purposes of this section, the immediate family member shall  
22 be either a spouse, parent, child, or sibling but shall not include step-parents, step-  
23 children or step-siblings; and
- 24 f. Any other evidence that the property owner has no other reasonable means of  
25 relieving that economic hardship.

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

28 (2) *Partially exempt residential subdivision plans.* Minor subdivision plans are exempt  
29 from the requirement to pass the test for adequate road facilities as a condition of plan

1 approval. However, minor subdivision plans are required to pass the tests for  
2 allocations and adequate public school facilities as a condition of subdivision approval.

3 (3) *Exempt residential site development plans.* Residential site development plans for  
4 single-family attached and detached housing on recorded lots that existed on April 10,  
5 1992 are exempt from the requirement to pass the test for adequate road facilities and  
6 the tests for allocations and adequate public school facilities as a condition of site  
7 development plan approval.

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

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

19 (ii) Residential site development plans for mobile home parks to which replacement  
20 units have been reassigned in accordance with subsection (i) above are exempt  
21 from the adequate public school facilities test for the number of replacement units  
22 reassigned if the site development plan for the mobile home park is located in the  
23 same elementary and middle school districts as the abandoned or permanently  
24 closed mobile home park from which the units were reassigned. If the number of  
25 units proposed on the site development plan exceeds the number of reassigned  
26 units available, or if the site development plan includes reassigned units from a  
27 different elementary and/or middle school district, the excess units receiving  
28 allocations as required in subsection (i) above, and the reassigned units from a  
29 different elementary and/or middle school district, as the case may be, shall be  
30 subject to the adequate public school facilities tests. If the proposed mobile home



1 park is located in a different elementary and/or middle school district, the site  
2 development plan must pass the appropriate adequate public school facility test(s)  
3 for all units approved on the site development plan.

4 (5) *Partially exempt multifamily residential site development plans:*

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

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

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

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

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

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

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

1 Existing units being replaced must have been occupied on a full-time basis for at least  
2 30 days in the year prior to submission of the subdivision or site development plan for  
3 redevelopment of the site. If the number of units on the redevelopment plan exceeds  
4 the number of existing units, the additional units shall pass the allocations, adequate  
5 public schools and roads tests as a condition of plan approval.

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

13 (9) *Partially exempt urban renewal residential subdivision or site development plans; Test*  
14 *for adequate school facilities.* Residential units that are part of an Urban Renewal  
15 project, as designated by title 13, subtitle 11 of this Code, are exempt from the  
16 requirement to pass the test for adequate school facilities as a condition of subdivision  
17 or site development plan approval.

18 (10) **EXEMPT TOD (TRANSIT ORIENTED DEVELOPMENT) RESIDENTIAL SUBDIVISION OR SITE**  
19 **DEVELOPMENT PLANS; TEST FOR ADEQUATE SCHOOL FACILITIES. A RESIDENTIAL**  
20 **DEVELOPMENT WITHIN A TOD (TRANSIT ORIENTED DEVELOPMENT) IS EXEMPT FROM**  
21 **THE REQUIREMENT TO PASS THE TEST FOR ADEQUATE SCHOOL FACILITIES AS A**  
22 **CONDITION OF SUBDIVISION OR SITE PLAN DEVELOPMENT APPROVAL. THESE PLANS ARE**  
23 **REQUIRED TO PASS THE ALLOCATIONS AND ROADS TESTS AS A CONDITION OF PLAN**  
24 **APPROVAL.**

25  
26 **Title 20 – Taxes, Charges, and Fees**

27 **SUBTITLE 1. – Real Property Tax; Administration, Credits, and Enforcement**

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

1 **Sec. 20.143. Surcharge imposed.**

2 (a) Chapter 744 of the Acts of the General Assembly of 2019, set forth in section 20.142 of the  
3 Howard County Code, requires that the County Council impose a school facilities surcharge  
4 on residential new construction for which a building permit is issued on or after July 1,  
5 2004, with the revenue from the surcharge to be used to pay for additional or expanded  
6 public school facilities such as renovations to existing school buildings or other systemic  
7 changes, debt service on bonds issued for additional or expanded public school facilities, or  
8 new school construction.

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

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

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

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

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

- 23 1. Classified as senior housing under 42 U.S.C. § 3607(b); or
- 24 2. Addition construction, meaning construction of an addition to a building where  
25 the work requires a Howard County building permit and where the addition either:  
26 A. Increases the number of gross square feet of occupiable nonresidential  
27 structure on the property; or

- 1           B. Increases the number of gross square feet of occupiable residential structure  
2           on the property by 2,000 square feet or less and addition construction of more  
3           than 2,000 square feet shall be assessed a rate under subsection (b)(2) of this  
4           section for the square feet of the addition that is more than 2,000 square feet.
- 5           (ii) 1. In this paragraph, "Downtown Columbia Development District" has the meaning  
6           provided for the term "Development District" in Council Resolution 105-2016.
- 7           2. Outside the Downtown Columbia Development District, surcharge is the greater  
8           of \$1.32 or one-third the rate set under paragraph (2) of this subsection for a  
9           moderate income housing unit that is built onsite beyond the number of moderate  
10          income housing units required for the development by title 13, subtitle 4 of this  
11          Code.
- 12          3. In the Downtown Columbia Development District, the surcharge on residential  
13          new construction that is an affordable unit is a rate of:
- 14           A. \$1.32 per square foot of occupiable area; plus  
15           B. One-half of the difference between \$1.32 and the rate that would be applicable  
16           to the residential new construction if it was located outside the Downtown  
17           Columbia Development District.
- 18          (iii) The surcharge is one-third of the rate set under paragraph (2) of this subsection for  
19          non-senior residential new construction projects that have received funding from  
20          the State of Maryland or from the County as an affordable housing project after  
21          December 31, 2020.
- 22          (4) The rate established in paragraph (2) of this subsection shall be adjusted for inflation in  
23          accordance with the Consumer Price Index for All Urban Consumers published by the  
24          United States Department of Labor, for the fiscal year preceding the year for which the  
25          amount is being calculated. The adjustment may not reduce the rate below \$1.32. **FOR**  
26          **RESIDENTIAL NEW CONSTRUCTION WITHIN A TOD (TRANSIT ORIENTED DEVELOPMENT)**  
27          **THE SCHOOL FACILITIES SURCHARGE SHALL BE FIXED AT THE RATE IN EFFECT WHEN THE**  
28          **SKETCH PLAN OR PRELIMINARY EQUIVALENT SKETCH PLAN WAS SUBMITTED TO THE**  
29          **DEPARTMENT OF PLANNING AND ZONING.**

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

4

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

7