



Bill No. 21-03
 Concerning: Revisions to the School Construction
Fee

 Introduced: April 6, 2021
 Revised: _____ Draft No. _____
 Enacted: May 18, 2021
 Effective: July 17, 2021
 Expires: July 5, 2021
 Frederick County Code, Chapter 1-20
 Section(s) 62

COUNTY COUNCIL
FOR FREDERICK COUNTY, MARYLAND

By: Council Members Steve McKay, Jerry Donald and Kai Hagen

AN ACT to: Adjust the School Construction Mitigation Fee to Match the Actual Cost of Building Schools.

Executive: Jan H. Gardner Date Received: May 26, 2021
 Approved: ✓ Date: 5/27/2021
 Vetoed: _____ Date: _____

By amending:
 Frederick County Code, Chapter, 1-20 Section(s) 62
 Other: & Fee Schedule, Division of Planning and Permitting

| | |
|----------------------------|---|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law.</i> |
| [Single boldface brackets] | <i>Deleted from existing law.</i> |
| *** | <i>Existing law unaffected by bill.</i> |

Bill No. 21-03

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapter 1-20-62 of the Frederick County Code (School Construction Fee Option) to: (1) revise the required payments for public school construction fees; (2) change the effective date of annual adjustments to the school construction fee from January 1 to July 1 of each year; (3) provide certain requirements for how the school construction fee is adjusted each year; and (4) amend the Division of Planning and Permitting Fee Schedule to reflect the adjusted School Construction Fees.

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.



MC Keegan-Ayer, President
County Council of Frederick County,
Maryland

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ARTICLE VI: SCHOOLS

§ 1-20-62 SCHOOL CONSTRUCTION FEE OPTION.

(A) The provisions of this section shall apply only to those developments approved to use the school construction fee option, as documented by an APFO Letter of Understanding or development rights and responsibilities agreement (“DRRA”) fully executed by the developer and the county on or prior to July 20, 2016. No new developments may choose to use the school construction fee option after July 20, 2016.

(B) School construction fees shall be paid in addition to, and not in lieu of, public school development impact fees under Chapter 1-22 of the Frederick County Code.

(C) If a development has not entered into a DRRA with the county but was approved to use the school construction fee option prior to July 20, 2016 by a fully executed APFO Letter of Understanding, and if that APFO Letter of Understanding has expired, the development may apply for APFO re-testing and mitigate school capacity by using the school construction fee option, provided that all of the following requirements are met as of the APFO Test Date:

- (1) The total size of the development is equal to or less than 60 dwelling units;
- (2) More than 50% of the dwelling units in the development are built out and have certificates of occupancy;
- (3) The total number of projected students upon re-testing does not exceed 10, including all school levels;
- (4) No school serving or proposed to serve the development exceeds 120% of State Rated Capacity, taking into account actual capacity expected to be provided by new schools and school additions scheduled for construction in the first 2 years of the CIP;
- (5) All public roads in the development have been built to county standards and accepted by the county for public maintenance; and
- (6) All unplatted lots remaining in the development must be included in the APFO re-testing in accordance with this subsection. A development may not submit piecemeal applications for re-testing portions of an uncompleted development.

(D) The APFO Letter of Understanding⁵ and any ~~development rights and responsibilities agreement (“DRRA”)~~⁶ for the development shall incorporate provisions for payment of the school construction fees.

(E) School construction fees due to the county shall be listed on the Department of Permits and Inspections fee schedule.

(F) School construction fees shall be paid at the time of recording of subdivision plats for each unit, except for multi-family units, which shall be paid not later than the time of building

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*** - indicates existing law unaffected by bill.

40 permit application. The school construction fees to be applied to each residential unit shall be the
41 fees in effect at the time of plat recordation or building permit application.

42 (G) Annual adjustment. ~~[On or before January 15, 2017, and on or before January 15 of each~~
43 ~~year thereafter, the County Executive shall provide to the County Council a report which proposes~~
44 ~~an annual adjustment to the School Construction Fee Schedule, based on the most recent data from~~
45 ~~the State of Maryland School Construction Cost Index. The proposed annual adjustment will not~~
46 ~~take effect unless the County Council enacts a bill adopting it.] On July 1, 2021, and on July 1 of
47 each year thereafter in which the school construction fee is in effect, the amount of the school
48 construction fee per dwelling unit and school level, shall be adjusted annually as follows:~~

49 (1) On or before January 15, 2021, and on or before January 15 of each year thereafter, the
50 county executive shall provide to the county council a report which proposes an annual adjustment
51 to the school construction fee. The adjustment shall be calculated by taking into account the most
52 recent data from the state of Maryland school construction cost index. For purposes of this
53 calculation, the “State of Maryland School Construction Cost Index” shall be the statewide per-
54 square-foot school building and site development cost as established and adjusted annually by the
55 State of Maryland interagency committee on school construction.

56 (A) The annual adjustment to the school construction fee may also include changes to
57 other factors and data components in the fee calculations.

58 (B) A component of the fee calculation is the pupil yield rate, which is the average
59 number of pupils expected to be generated per housing unit type and school level. Whenever
60 possible, the pupil yield rates used in the fee calculation shall be the pupil yield rates calculated
61 for the developments currently paying the school construction mitigation fee. Otherwise, the pupil
62 yield rates used in the fee calculation shall be the pupil yield rates calculated for developments of
63 similar location and composition.

64 (2) The proposed annual adjustment shall take effect on July 1, the first day of the fiscal
65 year immediately following receipt of the report, unless the County Council enacts a bill that takes
66 effect on or before June 30 of the same year as the report, to change or maintain the current school
67 construction fee.

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71 **FEE SCHEDULE, DIVISION OF PLANNING AND PERMITTING**

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75 **VII. APFO SCHOOL CONSTRUCTION FEES**

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76 School construction fees due to the county shall be determined by using the chart below. [The
 77 school construction fees shall be calculated] The amount of school construction fees due is
 78 determined by multiplying the appropriate school construction fee listed in the chart [component(s)
 79], based on the proposed development’s failure to meet public school adequacy at the elementary,
 80 middle or high school level, by the number of residential units of each type.

81 [~~The school construction fees shall be increased once annually, on January 1, 2019 through and~~
 82 ~~including January 1, 2026, without further action of the County Council. The annual fee increases~~
 83 ~~shall be based on the following formula: the change in the State of Maryland School Construction~~
 84 ~~Cost Index from the prior year to the current year, expressed as a percentage, plus two percent~~
 85 ~~(2%). The result will be multiplied by the then current school construction fees, provided that the~~
 86 ~~fee increases in any single year shall not exceed six percent (6%).]~~

87 On July 1, 2021, and on July 1 of each year thereafter in which the school construction fee is in
 88 effect, the amount of the school construction fee, per housing unit type and school level, shall be
 89 adjusted. The adjustment shall be calculated by taking into account the most recent data from the
 90 State of Maryland School Construction Cost Index and, periodically, changes to other factors and
 91 data components in the fee calculations.

92 For purposes of this calculation, the “State of Maryland School Construction Cost Index” shall be
 93 the statewide per-square-foot school building and site development cost as established and
 94 adjusted annually by the State of Maryland Interagency Committee on school construction.

95 The school construction fees are found in the table below:

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| Housing Unit Type | Failure at Elementary School Level | Failure at Middle School Level | Failure at High School Level |
|---------------------------|---|---|---|
| Single Family Detached | [\$4,688] <u>\$7,897</u> | [\$2,065] <u>\$5,142</u> | [\$4,386] <u>\$7,316</u> |
| Townhouse/Duplex | [\$5,871] <u>\$9,406</u> | [\$1,807] <u>\$5,578</u> | [\$3,412] <u>\$6,022</u> |
| Other Residential | [\$2,572] <u>\$4,867</u> | [\$701] <u>\$2,526</u> | [\$1,354] <u>\$3,148</u> |

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