



Bill No. 21-12  
Concerning: Amend and Update Chapter 1-22 Article  
I, Development Impact Fee Procedures and  
Requirements, and Article II, Public School  
Development Impact Fee, of the Frederick County  
Code  
Introduced: November 2, 2021  
Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_  
Enacted: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Expires: January 31, 2022  
Frederick County Code, Chapter 1-22  
Section(s) 2, 3, 4, 5, 7, 14 and 16

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Jerry Donald

**AN ACT** to: adopt changes to Chapter 1-22 of the Frederick County Code (Development Impact Fee Procedures and Requirements).

Executive: \_\_\_\_\_ Date Received: \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, 1-22 Section(s) 2, 3, 4, 5, and 14

Other:

**Boldface**

Underlining

[Single boldface brackets]

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*Heading or defined term.*

*Added to existing law.*

*Deleted from existing law.*

*Existing law unaffected by bill.*

1 Bill No. 21-12

2 The County Council of Frederick County, Maryland, finds it necessary and appropriate to  
3 amend Chapter 1-22 of the Frederick County Code to update the development impact fee  
4 procedures and requirements to: (1) reflect changes in the calculation of public school development  
5 impact fees, which now includes land acquisition and certain transportation costs (e.g., new buses  
6 required due to increased numbers of students); (2) change references to “Community  
7 Development Division” to “County Division of Planning and Permitting”; (3) clarify certain  
8 situations where full development impact fees are not required to be paid; (4) specify requirements  
9 for refunds when development impact fees are paid in advance for senior housing developments;  
10 and (5) specify and clarify requirements for impact fee credits when public school facilities are  
11 constructed and when land is dedicated for construction of a public school facility.

12 NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF  
13 FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby,  
14 amended as shown on the attached Exhibit 1.

15  
16  
17  
18  
19 \_\_\_\_\_  
20 M. C. Keegan-Ayer, President  
21 County Council of Frederick County,  
22 Maryland

**PROPOSED TEXT AMENDMENTS TO**  
**CHAPTER 1-22 - IMPACT FEES**

**ARTICLE I: DEVELOPMENT IMPACT FEE PROCEDURES AND REQUIREMENTS**

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**§ 1-22-2. DEFINITIONS.**

\*\*\*\*\*

**CATASTROPHIC EVENT.** A fire, explosion, flood, hurricane, tornado, or other disaster not caused by the property owner or his or her agent.

\*\*\*\*\*

**DIRECTOR.** The Director of the Division of Planning and Permitting for the county, or designee.

\*\*\*\*\*

**LAND DEDICATION.** Land that is transferred to the county or the Board of Education for a public school facility, without expectation of payment or compensation from the county or the Board of Education.

\*\*\*\*\*

~~**PLANNING DIRECTOR.** The Director of the Department of Planning and Development Review for the county, or designee.~~

\*\*\*\*\*

**PUBLIC FACILITY EXPENDITURES.** Include amounts appropriated in connection with the planning, design, engineering and construction of public facilities; planning, legal, appraisal, land acquisition, and other costs related to financing and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessary or incident to provision of the public facility.

**PUBLIC SCHOOL DEVELOPMENT IMPACT FEE.** A fee imposed only on new residential development to fund the proportionate share of the costs of public school buildings, including costs for land acquisition and school transportation (e.g., buses).

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**§ 1-22-3. GENERAL PROVISIONS; APPLICABILITY.**

*{Subsections (A) through (D) remain unchanged}*

(E) *Type of development not required to pay development impact fees [affected].*

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1 (1) *Previously-issued building permits/ zoning certificates.*

2 a. No development impact fee shall be imposed on new development ~~[for which]~~ if the  
3 following conditions have been satisfied: (i) a building permit/zoning certificate was  
4 [has been] issued [prior to] before the effective date of this chapter; (ii) the work  
5 authorized by the building permit has been completed; and (iii) a certificate of  
6 occupancy has been issued.

7 b. If a project is abandoned, if the building permit expires or is revoked, or if the  
8 property ownership has changed, any previously paid development impact fees  
9 which have not been refunded will be credited toward the development impact fees  
10 due for the property, and only the difference between the amount paid and the  
11 current rate will be required to be paid prior to the issuance of a new or replacement  
12 building permit.

13  
14 (2) *No net increase in dwelling units.*

15  
16 a. No development impact fee shall be imposed on any new residential development  
17 which does not add a new dwelling unit, provided that the dwelling unit being  
18 replaced must have been habitable and occupied as of July 1, 2001 and must have  
19 been continuously habitable and occupied from July 1, 2001 through the date of  
20 application for a replacement building permit for the dwelling unit.

21 b. No development impact fee shall be imposed for alteration or expansion of an  
22 existing dwelling unit where no additional dwelling unit is created.

23 c. No development impact fee shall be imposed if a dwelling unit has been destroyed  
24 by a catastrophic event, and the applicant:

25 i. requests this exemption within two (2) years after the date of the catastrophic  
26 event; and

27 ii. submits a building permit application for the replacement dwelling unit.

28 d. The burden of proof shall be on the permit applicant to demonstrate that the  
29 requirements of a., b., or c. above have been satisfied.

30 (3) *Development agreements.* The provisions of this chapter shall not apply to development  
31 projects which are the subject of a development agreement and which contain provisions for a  
32 development impact fee or other provisions in conflict with this chapter, but only to the extent of  
33 the conflict or inconsistency.

34 (4) *Public facilities provided by governments.* No development impact fees shall be  
35 imposed on the development of public facilities by the State of Maryland, the county, any  
36 municipality or the federal government.

37 (F) *Effect of payment of development impact fees on other applicable county land use, zoning,*  
38 *platting, subdivision or development regulations.*

39 (1) The payment of development impact fees shall not entitle the applicant to a building  
40 permit/zoning certificate unless all other applicable land use, zoning, planning, adequate public  
41 facilities, forest resource, platting, subdivision or other related requirements, standards and  
42 conditions have been met. Such other requirements, standards and conditions are independent of  
43 the requirement for payment of a development impact fee.

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1 (2) Nothing in this chapter shall affect, in any manner, the permissible use of property,  
2 density/ intensity of development, design and improvement standards or other applicable  
3 standards or requirements of the land development regulations of the county or any municipality,  
4 where applicable.

5  
6 **§ 1-22-4. PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION OF**  
7 **DEVELOPMENT IMPACT FEES.**

8 (A) *In general.* An applicant shall be notified by the county or by the municipality within  
9 which new development is located of the applicable development impact fee requirements at the  
10 time of application for a building permit/zoning certificate. At such time, the development  
11 impact fees shall be calculated by the Director [~~of the Community Development Division of the~~  
12 ~~county, or designee,~~] and shall be paid by the applicant [~~prior to~~] before the issuance of a  
13 building permit/zoning certificate.

14 (B) *Calculation.*

15 (1) Upon receipt of an application for a building permit/zoning certificate, the Director [~~of~~  
16 ~~the Community Development Division of the county, or designee,~~] shall determine:

- 17 (a) Whether it is a residential use;  
18 (b) The specific category (type) of residential development, if applicable; and  
19 (c) If residential, the number of new dwelling units.

20 (2) Upon receipt of an application for a building permit/zoning certificate, the Director [~~of~~  
21 ~~the Community Development Division of the county, or designee,~~] shall determine whether it is  
22 for a change in use. In such cases, the development impact fee due shall be based only on the  
23 incremental increase in the fee for the additional public facilities needed for the change in use.  
24 An applicant shall not be entitled to a refund where the change of use is to a category of  
25 development which imposes a lower demand on public facilities.

26 (3) After making these determinations, the Director [~~of the Community Development~~  
27 ~~Division of the county, or designee,~~] shall calculate the applicable development impact fee by  
28 multiplying the demand added by the new development by the amount of the applicable  
29 development impact fee per unit of development, incorporating any applicable credit if set forth  
30 in the particular development impact fee calculation methodology.

31 (4) If the type of land use proposed for new development is not expressly listed in the  
32 particular development impact fee ordinance and schedule, the Director [~~of the Community~~  
33 ~~Development Division of the county, or designee,~~] shall:

34 (a) Identify the most similar residential development type listed and calculate the  
35 development impact fee based on that residential development type; or

36 (b) At the option of the applicant, or the [~~Planning~~] Director[~~;~~], determine the basis used to  
37 calculate the fee pursuant to an independent impact analysis for development impact fee  
38 calculation. The applicant on a form provided by the county for such purpose shall request this  
39 option. If this option is chosen, the following shall apply.

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1           1. The applicant shall be responsible, at its sole expense, for preparing the independent  
2 impact analysis, which shall be reviewed for approval by the ~~[Planning]~~ Director, before ~~[prior~~  
3 ~~to]~~ payment of the fee.

4           2. The independent impact analysis shall measure the impact that the proposed  
5 development will have on the particular public facility at issue and shall be based on the same  
6 methodologies used in the development impact fee calculation methodology report and shall be  
7 supported by professionally acceptable data and assumptions.

8           3. After review of the independent impact analysis submitted by the applicant, the  
9 ~~[Planning]~~ Director shall accept or reject the analysis and provide written notice to the applicant  
10 of its decision within 45 days. If the independent impact analysis is rejected, the written notice  
11 shall provide an explanation of the insufficiencies of the analysis.

12           4. The final decision of the ~~[Planning]~~ Director may be appealed pursuant to § 1-22-  
13 6 herein.

14           (5) An applicant may, at any time, request a non-binding estimate of development impact  
15 fees due for a particular new development by filing a request on a form provided for such  
16 purpose by the Director ~~[of the Community Development Division of the county]~~; provided,  
17 however, that such estimate may be subject to change when a formal application for a building  
18 permit/zoning certificate for new development is made. Such non-binding estimate is solely for  
19 the benefit of the prospective applicant and shall in no way bind the county nor preclude it from  
20 making amendments or revisions to any provisions of this chapter or the development impact fee  
21 schedules.

22           (6) The calculation of development impact fees due from a multiple-use new development  
23 shall be based upon the type and number of dwelling units created in the new development.

24           (7) The calculation of development impact fees due from a phased new development shall  
25 be based upon the development impact fees due for each dwelling unit within the phase of  
26 development for which building permits/zoning certificates are requested.

27           (8) Development impact fees shall first be calculated based on the development impact fee  
28 amount in effect at the time of application for a building permit/zoning certificate, but the  
29 amount of the development impact fee due is the amount of the development impact fee in effect  
30 on the date of issuance of the building permit/zoning certificate.

31           (C) ~~[Offsets]~~Reserved.

32           ~~[(1) Offsets against the amount of a development impact fee due from a new development~~  
33 ~~shall be provided for, among other things, contributions made concurrently or to be made in the~~  
34 ~~future in cash, or by actual construction of all or part of a public facility by the affected property~~  
35 ~~owner for public facilities meeting or exceeding the demand generated by the new development~~  
36 ~~for the specific facility and the contribution is determined by the Planning Director to be a~~  
37 ~~reasonable substitute for the cost of public facilities which are included in the particular~~  
38 ~~development impact fee calculation methodology. No offset shall be provided for the dedication~~  
39 ~~of land.~~

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1 ~~—(2) The amount of the excess contribution shall be determined by the Planning Director~~  
2 ~~upon receipt of an application form requesting an offset; provided, however, that:~~

3 ~~—(a) The Planning Director will make no reimbursement for excess contributions unless~~  
4 ~~and until the particular public facility fund has sufficient revenue to make the reimbursement~~  
5 ~~without jeopardizing the continuity of the county's capital improvements program; and~~

6 ~~—(b) The excess contribution may not be transferred or credited to any other type of~~  
7 ~~development impact fees calculated to be due from that development for other types of public~~  
8 ~~facilities. The determination of the eligibility for and the amount of the credit shall be made by~~  
9 ~~the Planning Director on a form provided for such purposes. If the applicant contends that any~~  
10 ~~aspect of the Planning Director's decision constitutes an abuse of discretion, the applicant shall~~  
11 ~~be entitled to appeal pursuant to § 1-22-6.~~

12 ~~—(3) No offset shall be allowed unless the County Executive has approved the contribution or~~  
13 ~~expenditure before it is made.~~

14 ~~—(4) Offsets for provision of public facilities shall be applicable only as to development~~  
15 ~~impact fees imposed for the same types of public facilities which are proposed to be dedicated or~~  
16 ~~provided. Even if the value of the public facility provided exceeds the development impact fee~~  
17 ~~due for the type of public facility, the excess value may not be transferred to development impact~~  
18 ~~fees calculated to be due from the applicant for other types of public facilities for which~~  
19 ~~development impact fees may be imposed. Offsets may, however, be transferred to the same~~  
20 ~~applicant or to other applicants for new development which are proposed within the final~~  
21 ~~approved plan for a single development and for the same type of public facility.~~

22 ~~—(5) Notwithstanding any other provision of this section, no credit or offset shall be given for~~  
23 ~~land dedicated, cash contributed or actual construction undertaken prior to the effective date of~~  
24 ~~this chapter.]~~

25 (D) *Collection.*

26 (1) The [County] Director [of the Community Development Division, or designee,] shall  
27 collect all applicable development impact fees at the time of issuance of a building permit/zoning  
28 certificate and shall issue a receipt to the applicant for such payment unless:

29 (a) The applicant has been determined to be entitled to a full credit or offset; or

30 (b) The applicant has been determined to be not subject to the payment of a development  
31 impact fee; or

32 (c) The applicant has filed an appeal, and a letter of credit in the amount of the  
33 development impact fee, as calculated by the [County] Director [of the Community Development  
34 Division, or designee,] has been posted with the county. Such letter of credit must first be  
35 approved by the County Attorney and Director of Finance.

36 (2) The [County] Director [of the Community Development Division,] shall collect a  
37 development impact fee at the time of issuance of a building permit/zoning certificate even if  
38 development impact fees were paid by the applicant at an earlier time in the development permit  
39 or approval process, including at the time of application for a building permit/zoning certificate,

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1 if the amount of the development impact fees has increased since such prior approval. The  
2 applicant shall only be liable for the difference between the development impact fees paid earlier  
3 and those in effect at the time of issuance of the subsequent building permit/zoning certificate.

4  
5  
6 **§ 1-22-5. ESTABLISHMENT OF DEVELOPMENT IMPACT FEE ACCOUNTS;  
7 APPROPRIATION OF DEVELOPMENT IMPACT FEE FUNDS; AND REFUNDS.**

8 (A) *Development impact fee accounts.* A development impact fee account shall be  
9 established by the county for each category of public facilities for which development impact  
10 fees are imposed. Such account shall clearly identify the category, account, or fund for which the  
11 development impact fee has been imposed. All development impact fees collected by the county  
12 or a municipality shall be deposited into the appropriate development impact fee account or  
13 subaccount, which shall be interest bearing. All interest earned on monies deposited to such  
14 account shall be credited to and shall be considered funds of the account. The funds of each such  
15 account shall be capable of being accounted for separately from all other county funds, over  
16 time. The county shall establish and implement necessary accounting controls to ensure that the  
17 development impact fee funds are properly deposited, accounted for, and appropriated in  
18 accordance with this chapter, and any other applicable legal requirements.

19 (B) *Appropriation of development impact fee funds.*

20 (1) *In general.* Development impact fee funds may be appropriated for public facilities, for  
21 public facility expenditures as defined in § 1-22-2 hereof, and for the payment of principal,  
22 interest and other financing costs on contracts, bonds, notes or other obligations issued by or on  
23 behalf of the county or other applicable local governmental entities to finance such public  
24 facilities and public facility expenditures. All appropriations from development impact fee  
25 accounts shall be documented by the Finance Division.

26 (2) *Restrictions on appropriations.* Development impact fees shall be appropriated only [~~:-~~  
27 ~~—(a)—~~]For the particular category of public facilities for which they were imposed,  
28 calculated and collected[~~;- and~~

29 ~~—(b)—~~Within 6 years of the beginning of the fiscal year immediately succeeding the date of  
30 collection, unless a longer time period is established as provided herein. Development impact  
31 fees shall not be appropriated for funding any expenditure that would be classified in an  
32 accounting as a maintenance or repair expense or for operational or personnel expenses  
33 associated with the provision of the public facility.

34 ~~—(3)—~~Appropriation of development impact fee funds beyond 6 years of collection.  
35 Notwithstanding subsection (B)(2), development impact fee funds may be appropriated beyond 6  
36 years from the beginning of the fiscal year immediately succeeding the date of collection if the  
37 appropriation is for a public facility which requires more than 6 years to plan, design and  
38 construct, and the demand for the public facility is generated in whole or in part by the new  
39 development, or if the public facility will actually serve the new development, or where the

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1 ~~capital improvements program prepared by the county for a particular category of public facility~~  
2 ~~has used a longer time frame. Such appropriations shall be documented by the county].~~

3 (C) *Procedure for appropriation of development impact fee funds.*

4 (1) The Budget Director shall each year identify public facility projects anticipated to be  
5 funded in whole or in part with development impact fees. The public facilities so identified shall  
6 be based upon such information as may be relevant and may be part of the county's annual  
7 budget and capital improvements programming process.

8 (2) All such identification of public facility projects shall be consistent with the provisions  
9 of this chapter or other applicable legal requirements and any guidelines adopted by the county.

10 (3) The county may include development impact fee-funded public facilities in the county's  
11 annual budget and capital improvements program. Before ~~[Prior to]~~ including these ~~[such]~~ public  
12 facilities in the budget and capital improvements program, the county shall consider the nature of  
13 the facility, the location of the public facility, the capacity to be added by the public facility, the  
14 service area of the public facility, the need/ demand for the public facility, and the anticipated  
15 timing of completion of the public facility.

16 (4) The county may authorize development impact fee-funded public facilities at such other  
17 times as may be deemed necessary and appropriate by the county governing body.

18 (5) The County Executive shall verify that adequate development impact fee funds are or  
19 will be available from the appropriate development impact fee account for the particular public  
20 facility.

21 (D) *Refunds.*

22 (1) *Eligibility for refund.*

23 (a) *Expiration or revocation of building permit/zoning certificate.* An applicant who has  
24 paid a development impact fee for a new development for which the necessary building  
25 permit/zoning certificate has expired or for which the building permit/zoning certificate has been  
26 revoked before ~~[prior to]~~ construction shall be eligible to apply for a refund of development  
27 impact fees paid on a form provided by the county for such purposes.

28 ~~[(b) *Failure of county to use or appropriate development impact fee funds within time*~~  
29 ~~*limit. The current property owner may apply for a refund of development impact fees paid by an*~~  
30 ~~*applicant if the county has failed to use or appropriate the development impact fees collected*~~  
31 ~~*from the applicant within the time limit established in subsections (B)(2) and (3[4]). The refund*~~  
32 ~~*application shall be made on a form provided by the county for such purposes]*~~

33 (b[e]) *Abandonment of development after initiation of construction.* An applicant who has  
34 paid a development impact fee for a new development for which a building permit/zoning  
35 certificate has been issued and pursuant to which construction has been initiated, but which  
36 construction is abandoned before ~~[prior to]~~ completion and issuance of a certificate of occupancy  
37 shall not be eligible for a refund unless the uncompleted building is completely demolished.

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1           (c[d]) *Administrative fee.* A 2% administrative fee, [but] not to exceed \$500, shall be  
2 deducted from the amount of any refund granted and shall be retained by the county to defray the  
3 administrative expenses associated with the processing of a refund application.

4           (2) Except as provided in subsections (D)(1)(a) and (b[e]) hereof, refunds shall be made  
5 only to the current owner of property on which the new development was proposed or occurred.

6           (3) Applications for a refund shall be made on a form provided by the county for such  
7 purposes and shall include all information required in subsection[s] (D)(4[5]) [or (6)] hereof, as  
8 appropriate. Upon receipt of a complete application for a refund, the [County] Director [of the  
9 ~~Community Development Division, or designee,~~] shall review the application and documentary  
10 evidence submitted by the applicant as well as such other information and evidence as may be  
11 deemed relevant and make a determination as to whether a refund is due. Refunds by direct  
12 payment shall be made following an affirmative determination by the [County] Director [of the  
13 ~~Community Development Division, or designee~~].

14           (4) Applications for refunds due to abandonment of a new development before [prior to]  
15 completion or due to expiration or revocation of a building permit/zoning certificate shall be  
16 made on forms provided by the [County] Director [of the ~~Community Development Division~~]  
17 and shall be made within 60 days following expiration or revocation of the building  
18 permit/zoning certificate. The applicant shall submit:

19           (a) Evidence that the applicant is the property owner or the duly designated agent of the  
20 property owner;

21           (b) The amount of the development impact fees paid by public facilities category and  
22 receipts evidencing such payments; and

23           (c) Documentation evidencing the expiration or revocation of the building permit/zoning  
24 certificate before [prior to] construction or approval of demolition of the structure pursuant to a  
25 valid county- issued demolition permit.

26           (d) Failure to apply for a refund within 60 days following expiration or revocation of the  
27 building permit/zoning certificate or demolition of the structure shall constitute a waiver of  
28 entitlement to a refund. No interest shall be paid by the county in calculating the amount of the  
29 refunds.

30           ~~[(5) Applications for refunds due to the failure of the county to appropriate development  
31 impact fees collected from the applicant within the time limits established in subsection (B)(2)  
32 hereof shall be made on forms provided by the county and shall be made within 1 year following  
33 the expiration of such time limit. The applicant shall submit:~~

34           ~~— (a) Evidence that the applicant is the property owner or the duly designated agent of the  
35 property owner;~~

36           ~~— (b) The amount of the development impact fees paid by public facility category and  
37 receipts evidencing such payments; and~~

38           ~~— (c) Description and documentation of the county's failure to appropriate development  
39 impact fee funds for relevant public facilities.]~~

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2 **§ 1-22-14. SENIOR HOUSING EXEMPTION.**

3 (A) The development or construction of age- restricted adult or senior citizen housing shall be  
4 exempt from payment of a public school development impact fee, provided that:

5 (1) All requests for exemption under this section shall be submitted to the ~~[Planning]~~  
6 Director; and

7 (2) All such housing shall contain a deed restriction recorded against the property, in form  
8 satisfactory to the Frederick County Attorney, which deed restriction shall provide that:

9 (a) Such housing is restricted to occupancy by older persons, in compliance with the terms  
10 and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as  
11 amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3607;

12 (b) No person under the age of 18 years shall reside within any such housing unit; and

13 (c) The deed restriction shall provide that in the event that the above restrictions are ever  
14 modified or violated, the owner of the property at the time the restrictions are modified or  
15 violated shall pay to the county the then-current public school development impact fee.

16 (B) If public school development impact fees for age-restricted adult or senior citizen housing  
17 are paid before issuance of building permits, then these fees may be refunded if the following  
18 requirements are satisfied:

19 (1) A notice of intent to seek a refund of the public school impact fees is submitted at the time  
20 that the fees are paid; and

21 (2) All of the requirements listed above in § 1-22-14 (A) are completed and approved within  
22 12 months of payment of the public school development impact fees.

23 (C) The county may adopt such administrative regulations and guidelines and provisions for  
24 enforcement as they deem appropriate to implement this section and ensure that any housing  
25 exempted from payment of the public school development impact fee under this section contains  
26 adequate age and occupancy restrictions.

27 \*\*\*\*\*

28 **§ 1-22-16. CREDITS FOR LAND DEDICATION OR CONSTRUCTION OF PUBLIC**  
29 **SCHOOL FACILITIES.**

30  
31 (A) The county may provide credits against the development impact fees due from a new  
32 development for the value of: land dedication for construction of a public school facility; and  
33 actual construction of all or part of a public school facility.

34 (B) Credits will be available only for: (i) the dedication of land for a public school facility, or  
35 (ii) actual construction of public school facilities meeting or exceeding the demand generated by  
36 the new development for the specific facility; and only if the land dedication or construction is  
37 determined by the Director to be a reasonable substitute for the cost of public school facilities  
38 which are included in the particular development impact fee calculation methodology.

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1 (C) The Director shall determine eligibility for, and the amount of, the credit available under this  
2 section. The Director may not approve a credit for land dedication or construction of public  
3 school facilities unless the particular public facility development impact fee fund has sufficient  
4 revenue to make the reimbursement without jeopardizing the continuity of the county's capital  
5 improvements program.

6 (D) The total amount of any impact fee credit under this section may not exceed the actual  
7 amount of the impact fees due, and credits may not be transferred to any other type of  
8 development impact fee due from the same applicant for other types of public facilities.

9 (E) *Impact Fee Credits for Public School Construction.*

10 (1) An impact fee credit for construction of public school facilities may only be applied  
11 to development impact fees imposed for the same level(s) of public school facilities constructed.

12 (2) Even if the value of the public school facility provided by construction exceeds the  
13 total development impact fees due for that type of public school facility, the excess value may  
14 not be transferred to development impact fees due from the applicant for other types of public  
15 facilities or for other property being developed or to be developed by the applicant.

16 (F) *Impact Fee Credits for Land Dedication.*

17 (1) The County may approve impact fee credits for public school facility land dedication if the  
18 applicant submits an impact fee credit application which: (a) specifies the location and  
19 dimensions of the land which has been or will be dedicated for the public school facility; and (b)  
20 identifies the applicant's development and specific lots that are eligible for the land donation  
21 credit.

22 (2) To be eligible for this impact fee credit, land dedicated for public school facilities must:  
23 (a) be subdivided as an outlot; (b) be of sufficient size, as determined by the Board of Education,  
24 for the school type to be constructed; (c) comply with all applicable Board of Education Policies,  
25 as amended; and (d) be formally accepted by the Board of Education.

26 (3) No credit shall be applied under this subsection (F) for public school development impact  
27 fees paid prior to July 1, 2019.

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Underlining indicates matter added to existing law.

[Single boldface brackets] and ~~strikethrough~~ indicates matter deleted from existing law.

\*\*\* - indicates existing law unaffected by bill.

**Bill No. 21-12**