



## DIVISION OF PLANNING & PERMITTING FREDERICK COUNTY, MARYLAND

### *Department of Plans, Permits and Inspections*

30 North Market Street • Frederick, Maryland 21701

Phone (301) 600-2313 • Fax (301) 600-2309

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## Application of § 1-22-3(E)(2) of the County Code related to Impact Fees

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**Purpose:** To establish written guidelines relating to an impact fee exemption request known as the “*no net increase in dwelling units*” exemption, and the time frame and type of documentation that is acceptable to meet this requirement.

**Authority:** Director, Department of Permits & Inspections: Shall have the authority to determine whether or not an applicant has provided sufficient documentation to provide for a determination that the applicant is eligible for an impact fee exemption pursuant to the “no net increase in dwelling units” exemption under § 1-22-3(E)(2) of the County Code, which states:

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

**Policy:** This policy covers the determination as to whether the dwelling unit has been both habitable *and* occupied from July 1, 2001, through the date of application for a replacement building permit. There are situations where a property changes hands and the new property owner submits an application to replace an existing dwelling unit that is habitable but not currently occupied. Sometimes the unit has been unoccupied for a significant period of time depending on the circumstances, such as death of the prior owner or a foreclosure by the lender. This often results in a delay in submitting an application for a replacement dwelling unit, and the existing dwelling unit is not occupied continuously through the date of the application. In these situations, some flexibility should be given to provide the applicant with an opportunity to provide documentation to demonstrate that the existing dwelling unit is “habitable” but temporarily unoccupied when the replacement dwelling application is submitted.

Types of documentation that an applicant can provide for consideration include, but are not limited to, the following:

- Copy of an electric bill demonstrating that electric service was provided to the existing dwelling unit and that there was energy use consistent with occupancy
- Lease agreements
- Statements from State Department of Assessments and Taxation
- Affidavits from tenants, neighbors, or other persons or entities with pertinent information
- Other documentation or utility/service bills such as internet or cable

These documents are listed as examples of the types of documents that can be submitted, and this list does not prevent the submission of other relevant documents.

The burden of proof is on the applicant to prove that they have met the requirements for the exemption. Simply providing the documentation referenced above will not automatically result in approval. The

Director of Permits and Inspections shall apply this exemption in a fair and equitable manner. An appeal of the Director’s decision may be filed in accordance with §1-22-6.

**APPROVED:**

DocuSigned by:

*Asulye Bonomo*

8/28/2024

Asulye Bonomo, Director, Department of Permits & Inspections

(Date)

**APPROVED:**

DocuSigned by:

*Deborah A. Carpenter*

8/28/2024

Deborah A. Carpenter, AICP, Director, Division of Planning & Permitting

(Date)

**APPROVED:**

DocuSigned by:

*John K. Peterson*

9/12/2024

John K. Peterson, Chief Administrative Officer

(Date)