

Change May be Coming to the Way Housing Projects are Approved

Municipalities around Frederick County that deny housing projects because they will “change the neighborhood character” or because they simply “don’t want any more housing,” should be ready to prove in an objective, measurable way how new housing will adversely affect their community if Maryland House Bill HB053 (cross-filed with Senate Bill SB0430) passes the Maryland legislature and ends up on Governor Moore’s desk.

Known as the Regional Housing Infrastructure Gap Act (or Housing for Jobs Act), this proposed legislation will tie a region’s number of jobs to the housing needed to support those jobs. The legislation purposely aims to make it more difficult for jurisdictions to oppose reasonable housing projects.

The proposed legislation is similar to "Fair share" planning and zoning rules in New Jersey, Connecticut and other states that require each municipality or region to provide a proportional amount of affordable housing based on factors like population, jobs and land availability, essentially ensuring that the burden of providing low-income housing is distributed equitably across different areas, preventing concentration of affordable housing in only certain neighborhoods.

The housing gap in Frederick County was estimated to be 5,700 units in 2016, and we all know the gap has widened since then. It is especially dire for those at the bottom rungs of the economic ladder. To update our estimated gap, Frederick County is now in the early stages of a new housing study that will also lead to the county’s first housing strategic plan.

Even with people suffering with homelessness, overcrowding at others’ homes and doing without enough food, medicine and clothing to pay their exorbitant housing costs, some municipalities around Frederick County (excluding Frederick City) have made it abundantly clear that no residential growth or very slow residential growth are the only policies they will accept and support. We read about this time and again.

It shouldn’t be this way. Just like it takes a village to raise a child, it will take the entire county to solve our housing problem.

All municipalities in the county should share in the expected growth we cannot stop. There is not much we can do to quell demand to live in our county short of

ripping up Carroll Creek, razing our delightful downtown and walling off our picturesque scenery and open spaces, which are already protected by the state and county and can't be built upon.

Sure, we could shutter our windows and stop all housing projects in their tracks if we wished, but then we would become like other no-growth counties that eventually wither and then try to get back on track. This stance may work for people who live here now, but what about our children and aging parents who wish to stay. Where do they go?

The proposed legislation aims to peg needed housing to jobs. Specifically, the bill says that for every 1.5 jobs within our county, there should be one housing unit. Under our current jobs-to-housing ratio, the county would need to build 7,000 homes to reach that ratio, a number not far from our estimated 2016 gap of 5,700.

Pegging housing to jobs makes sense. People want to live close to where they work, and for a host of environmental, energy, family and community reasons, we should want that, too. Under the bill, planning and zoning boards and town councils *must* approve housing projects *unless* there's a very good and objective reason not to.

Municipalities would be able to stop housing development projects only if:

- It would have a specific adverse impact on the public health or safety to the residents who would live there, and there is no feasible way to mitigate it.
- It is in an area with inadequate water or wastewater facilities to adequately serve the project, and there is no feasible way to mitigate it.
- It is in an area zoned for heavy industrial use or on conservation property.
- It is in a school attendance area that has verifiable current or projected full-time enrolment that exceeds 100% of the school's estimated or state-rated capacity, and there is no feasible method to comply.

The bill authorizes the state's Department of Housing and Community Development and Department of Planning to calculate regional housing infrastructure gaps, provide the apportionment of regional housing infrastructure gaps to all counties and incorporated municipalities and establish that certain local jurisdictions have an *affirmative obligation* to expeditiously approve housing development project applications.

The “affirmative obligation” clause is a big one and a paradigm shift in how business is done now.

Currently, municipalities are under no obligation to help solve our county’s housing problem and often do not even see it as their problem. They are perfectly happy for most of the development to happen in Frederick City. Under the bill, a local jurisdiction may not deny a housing development project unless it has a justification that “clearly outweighs the need for housing and is supported by clear and convincing evidence.”

Indeed, if a local jurisdiction denies a housing development project, the local jurisdiction must provide in writing the reason for denial, specifying how the denial complies with the law. The proponent of a housing development may bring an action in the appropriate circuit court to enforce it. If passed and signed by the governor this session, which is likely, the Act will take effect on January 1, 2026.

This potential shift in state housing policy is not surprising. We should remember that land use control is constitutionally guaranteed to states, not municipalities. States have often delegated this authority to municipalities, as they’ve done in Maryland. But it can be taken back when local decision makers misuse the privilege.

It’s too bad doing the right thing has to be mandated, but we suspect the state has had enough new housing developments stopped in their tracks for specious reasons to warrant action. The days of simply not wanting more housing to stop projects may become a thing of the past.

The bill is still in draft form and there’s a very long way to go. It is currently in the House of Delegates with a hearing scheduled for March 4 at 1:00 pm. Frederick County Delegate Ken Kerr is a co-sponsor.