UPDATED 9/10/24

HOUSING EXPANSION AND AFFORDABILITY ACT (HB 538) FREQUENTLY ASKED QUESTIONS

PLEASE NOTE: The contents of this document are subject to change. Additional questions will be added, and question responses will be updated as new information becomes available. These responses are for informational purposes only. They do not, and are not intended to, constitute legal advice. They may not account for specific factual scenarios. You are encouraged to consult with an attorney with specific questions relating to the application of this law.

This FAQ document was last updated on **September 10, 2024**.

Section 1: Overview

1. **What is the purpose of the Housing Expansion and Affordability Act (HB 538)?**

   Governor Moore signed HB 538 into law on April 25, 2024, to provide an additional tool which Maryland can use to solve the state's 96,000 housing unit shortage. The bill is designed to address the housing supply and affordability crisis in a manner that is sensitive to local zoning, incentivizes affordability, and targets unit construction where it is most needed.

2. **When does HB 538 go into effect?**
   All provisions in HB 538 are effective on January 1, 2025.

3. **What does the Housing Expansion and Affordability Act do?**
   The Housing Expansion and Affordability Act has three primary components:
   1. Prohibits jurisdictions from denying the construction of manufactured and modular home construction types in single-family zones
   2. Establishes three categories of qualified projects (non-profit qualified projects, qualified projects on former state and federally owned campuses, and qualified projects within 0.75 miles of a rail station) and grants statutory benefits to those projects (including an increase in their allowable density, a limitation on the application of other local requirements, and a limitation on the number of public hearings).
   3. Establishes a Historic Property Revitalization Director, a new position the Maryland Department of Housing and Community Development

4. **What topics are addressed by these FAQs?**

   These FAQs address new provisions and other changes to the law put into place by the Housing Expansion and Affordability Act of 2024 (HB 538). They will be updated periodically with questions the state is regularly receiving about HB 538 implementation. If you have any questions not addressed in these FAQs, please submit them via the question form.

Section 2: Manufactured and Modular Home Types Allowed in Single Family Zones

1. **How does House Bill 538 impact the ability of jurisdictions to regulate the placement of homes built using manufactured or modular construction types?**

   HB 538 states that a legislative body may not prohibit the placement of a new manufactured home or modular dwelling in a zone that allows single family residential uses.

   Manufactured and modular homes are homes that are built through prefabricated construction types. The homes are constructed in a factory off-site, transported to the site (in whole or in pieces), assembled, and fixed to a foundation. The main difference between the two is that manufactured homes must meet federal safety standards established by the Housing and Urban Development Department. The legal definitions of both construction types are included below.

2. **How is "modular dwelling" legally defined?**

   A "modular dwelling" is defined in HB 538 as a building assembly or system of building subassemblies designed for habitation as a dwelling for one or more individuals that:
   - Includes the necessary electrical, plumbing, heating, ventilating, and other service systems.
   - Is made or assembled by a manufacturer on or off the building site for installation, or assembly and installation, on the building site and;
   - Is installed and set up according to the manufacturer's instructions on a foundation and support system that meets local building codes.

3. **How is "manufactured home" legally defined?**

   State law defines a manufactured home as a transportable structure that is more than 320 feet, designed to be used as a dwelling, and includes the plumbing, heating, air-conditioning, and electrical system. Any manufactured home that has a HUD certification number and complies with federal safety standards meets the criteria.

   This provision of HB 538 only applies to manufactured homes that are converted to real property. A home is converted to real property when all three of the following have occurred:

   1. The manufactured home is attached to a permanent foundation;
   2. The ownership interests of the manufactured home and the parcel of land it is affixed to are identical; and
   3. An affidavit of affixation has been recorded with the clerk of the court of the county or jurisdiction in which the parcel of real property is located

4. **Do manufactured and modular home types allowed under this section have to meet other criteria established by the jurisdiction?**

   HB 538 only requires that jurisdictions allow manufactured and modular homes to be placed in zones that allow single-family residential use. Jurisdictions can apply any other local requirements to these homes, including building codes, zoning codes, or other regulations.

5. **Are historic districts exempt from this provision?**

   There are no exemptions from this provision. Jurisdictions can require that these manufactured and modular homes meet all the same historic district standards that a more traditional single-family home would be required to meet if located in a designated historic district.

6. **Are sprinklers required to be added to these homes to meet Maryland State Law on fire suppression?**

   Currently, Maryland state law does not require the addition of sprinklers to manufactured homes, but does require sprinklers in new one- and two-family modular homes.

7. **Does this legislation allow mobile homes in zones that allow for single family residential uses?**

   No. The legislation only requires local jurisdictions to allow manufactured and modular homes that fit the definitions laid out in the Maryland Code in zones that allow single-family residential uses. Local jurisdictions must allow manufactured homes only if they are converted to real property, which includes attachment to a permanent foundation and connection to utilities. Modular homes must be allowed only if they are installed on an approved foundation and support system. There is no requirement to allow mobile homes on wheels or temporary foundations.

Section 3: Qualified Projects

1. **What are the types of qualified projects and benefits to project entities?**

"Qualified Project" Types	Benefits
Project is located on a historic former state- or federal-owned campus Project is controlled by a nonprofit or located on land owned by a nonprofit Project is located within 0.75 miles of a passenger rail station	Density bonuses exceeding the density permitted by local zoning Limitations on the application of local regulations that impact project costs, density and viability Limitations on the number of required public hearings

2. **What criteria does a project need to meet to be a "substantial renovation"?**

   HB 538 states that a qualified project consisting of substantial renovation must meet the criteria outlined within DHCD's Multifamily Rental Financing Program Guide. Total hard construction costs of rehabilitation for projects must be at least $25,000 per unit, and the project must provide an improved visual impact on the neighborhood, upgrade aging fixtures, and update ventilation standards. Any rehabilitation project receiving financing from the Department of Housing and Community Development will meet this criterion to be considered a qualified project (see criteria for and types of qualified projects below).

3. **How are middle housing units defined?**

   HB 538 defines middle housing units as duplexes, triplexes, quadplexes, cottage clusters, or town houses.

"Qualified Projects" on Former State or Federally-Owned Campuses

1. **What criteria does a project need to meet to be a former state or federally owned campus "qualified project"?**

   A "qualified project" under this section is a project that meets all of the following three criteria:

   1. The project must consist of new construction or substantial renovation.
   2. The project must be on property that either:
      a. Was formerly owned by the state, consists of more than one building, includes one building built more than 50 years ago, and is deemed appropriate for redevelopment by the Secretary of Housing and Community Development; OR
      b. Is currently or was formerly owned by the federal government, is greater than 80 acres, and was the site of a former U.S. military reservation
   3. The project must be deed-restricted to include 25% of housing units that are affordable dwelling units for a period of at least 40 years. (An affordable dwelling unit has housing costs that do not exceed 30% of a household's income for households earning less than 60% of the Area Median Income).

2. **What formerly state-owned or federal campuses meet the criteria in HB 538?**

   Properties that DHCD believes meet the requirements outlined in HB 538 are included below.

   DHCD notes that this list may be incomplete. If you believe a property meets the criteria but is not on the list, please submit information through the question form.

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Property Name	Address	City	Building Dates	Current Ownership	State or Federal Campus?
La Plata Armory	14 W. Hawthorne Road	La Plata	1951	Charles County	State
Pikesville Armory	610 Reisterstown Road	Pikesville	1903	Baltimore County	State
Warfield Complex	6933 Warfield Ave.	Sykesville	1898-1939	Warfield Companies	State
Crownsville Hospital	1520 Crownsville Road	Crownsville	1913-1959	Anne Arundel County	State
Maryland Motor Vehicle Commission Offices	2100 Guilford Ave.	Baltimore	1927-1947	State of MD, in disposition process	State
Camp Ritchie	25009 Lake Wastler Drive	Cascade	1926-1945	Cascade Properties LLC	Federal
Fort Howard	9500 North Point Road	Baltimore	1900-1955	US Veterans Affairs Department	Federal
National Park Seminary/ Forest Glen	9615 Dewitt Dr.	Silver Spring	1887-1942	Abaris Realty, Inc.	Federal

3. What additional density are "qualified projects" on former state and federal campuses entitled to under HB 538?

HB 538 states that a local jurisdiction shall allow the density of a qualified project to exceed the density otherwise allowed in a district or zoned as follows:

a. In an area zoned for single family residential use, a qualified project may include middle housing units.
b. In an area zoned for multifamily residential use, a qualified project may consist of mixed-use and shall have a density limit that exceeds by 30% the density otherwise allowed in that zone.
c. In an area zoned for mixed-use, a qualified project may consist of residential development with density limits that do not exceed the greater of: (1) the highest allowable density in the local jurisdiction's residential zones; or (2) six units per acre.

d. In an area zoned for nonresidential use, a qualified project may consist of mixed-use development with density limits that do not exceed the highest allowable density in the local jurisdiction's multifamily residential zones. (This is subject to a public health assessment approved by the Maryland Department of Housing and Community Development).

"Qualified Projects" Developed by Nonprofits

1. **What criteria does a project need to meet to be a nonprofit "qualified project"?**

   A "qualified project" under this section must meet all of the following three criteria:

   1. The project must consist of new construction or substantial renovation;
   2. The project must be on land, including land that is subject to a ground lease, that is either (a) wholly owned by a nonprofit organization; or (b) includes improvements owned by an entity that is controlled by a nonprofit organization; AND
   3. The project must be deed-restricted to include 25% of units that are affordable dwelling units for a period of at least 40 years

2. **How is "nonprofit organization" defined in HB 538?**

   A "nonprofit organization" is an organization that is qualified as tax-exempt under §501(C)(3) of the Internal Revenue Code and has been designated as such for at least 3 years.

3. **How is "controlled by" a nonprofit defined in HB 538?**

   "Controlled by" means a business structure in which a nonprofit organization is a managing member, general partner, or otherwise controlling entity with a for-profit member or partner as demonstrated by an attorney licensed in Maryland.

   As long as a nonprofit is part of a development partnership structure that meets one of the criteria above, the development partnership entity is eligible. There are no requirements for the nonprofit to have financial control of the development partnership, or to have a certain percentage of ownership interest in the partnership.

4. **What additional density are nonprofit "qualified projects" entitled to under HB 538?**

   HB 538 states that a local jurisdiction shall allow the density of a qualified project to exceed the density otherwise allowed in a district or zone as follows:

   a. In an area zoned for single family residential use, a qualified project may include middle housing units.
   b. In an area zoned for multifamily residential use, a qualified project may consist of mixed-use and shall have a density limit that exceeds by 30% the density otherwise allowed in that zone.
   c. In an area zoned for mixed-use, a qualified project may include 30% more housing units than are otherwise allowed in that zone.
   d. In an area zoned for nonresidential use, a qualified project may consist of mixed-use development with density limits that do not exceed the highest allowable density in the local jurisdiction's multifamily residential zones. (This is subject to a public health assessment approved by the Maryland Department of Housing and Community Development).

"Qualified Projects" within 0.75 miles of a Passenger Rail Station

1. **What criteria does a project need to meet to be a "qualified project" within 0.75 miles of a rail station?**

   A "qualified project" under this section must meet all of the following three criteria:

   a. The project must consist of new construction or substantial renovation;
   b. The project must be on property that is located within 0.75 miles of a present or planned passenger rail station located in Maryland; AND
   c. The project must be deed-restricted to include 15% of housing units that are affordable dwelling units for a period of at least 40 years. (An affordable dwelling unit has housing costs that do not exceed 30% of a household's income for households earning less than 60% of the Area Median Income)
      i. In a county or municipality that, on or before December 31, 2024, has requirements equal to or exceeding the requirement above, a qualified project

must be deed-restricted to include 20% of units that are affordable dwelling units for a period of at least 40 years.

2. **What jurisdictions have requirements "equal to or exceeding" the requirements, necessitating that a "qualified project" within 0.75 miles of a rail station have a higher 20% affordable unit set-aside?**

   Montgomery County is the only jurisdiction with requirements, via their Moderately Priced Dwelling Unit program, that exceed those outlined in HB 538. Any qualified project within 0.75 miles of a rail station in Montgomery County must be deed-restricted to include 20% of units that are affordable dwelling units for a period of at least 40 years.

3. **Where are "present or planned" passenger rail stations located? Are any rail stations excluded under HB 538?**

   Parcels that are fully within 0.75 miles of present or planned stations on the following passenger rail systems meet the criteria in HB 538: MARC, WMATA, Baltimore Metro SubwayLink, Baltimore Light RailLink, Amtrak, and Purple Line.

   Rail stations that are not located in the state of Maryland are not included. For example, a Maryland parcel that is within 0.75 miles of the Takoma WMATA station does not qualify, as the station itself is located in Washington, D.C.

   Additionally, rail stations that are located on the campus of a higher education institution do not qualify. This excludes the three UMD campus Purple Line stations: (1) Adelphi Road - UMGC - UMD; (2) Campus Drive - UMD; and (3) Baltimore Ave - UMD.

   A map of parcels estimated to be within 0.75 miles of included rail stations will be available in late 2024. Local jurisdictions should confirm eligible properties. List of included rail stations.

4. **What additional density are "qualified projects" within 0.75 miles of a rail station entitled to under HB 538?**

   HB 538 states that a local jurisdiction shall allow the density of a qualified project to exceed the density otherwise allowed in a district or zoned as follows:

   a. In an area zoned for single family residential use, a qualified project may include middle housing units.

b. In an area zoned for multifamily residential use, a qualified project may consist of mixed-use and shall have a density limit that exceeds by 30% the density otherwise allowed in that zone.
c. In an area zoned for nonresidential use, a qualified project may consist of mixed-use development with density limits that do not exceed the highest allowable density in the local jurisdiction's multifamily residential zones. (This is subject to a public health assessment approved by the Maryland Department of Housing and Community Development).
d. In an area zoned for mixed-use, a qualified project may include 30% more housing units than are otherwise allowed in that zone.

5. The legislation states that certain areas zoned for single-family residential use within 0.75 miles of a rail station are exempt from a density bonus. What does this exemption mean?

This language exempts areas that are zoned for single-family residential use as of January 1, 2024 and during a process to increase the allowable density for a qualified project.

In other words:

a. An area that was zoned for single family residential use as of January 1, 2024, but is no longer zoned for single family residential use *is not* exempt from the rail station qualified project density bonus.
b. An area that is currently zoned for single family residential use, but was not zoned for single family residential use as of January 1, 2024 *is not* exempt from the rail station qualified project density bonus.
c. An area that was zoned for single family residential use as of January 1, 2024 and is still zoned for single family residential use *is* exempt only from the rail station qualified project density bonus benefit.

While a rail station qualified project in an area that was and is still zoned for single family residential use (as described in the third bullet, above) is not entitled to the rail station qualified project density bonus under HB 538, it is entitled to the benefits outlined in both the unreasonable limitations provision (described in Section 6 below) and the public meeting provision (described in Section 7 below).

6. **Is the 0.75-mile radius from a rail station drawn from the center point of the station, or from the station boundary?**

   HB 538 does not specify where the 0.75-mile measurement begins. Jurisdictions should determine the starting point for their radius calculations. However, the bill's intent is to increase the supply of housing in Maryland and jurisdictions are encouraged to calculate the 0.75-mile radius generously to incorporate as many potential qualified project properties as possible, meaning the radius would start at the rail station property boundaries.

Section 4: General Questions on "Qualified Projects"

1. **What is the state's role in identifying qualified projects?**

   A developer with a qualified project will come to the local jurisdiction for project approval. There is no legal or statutory role for State of Maryland executive agencies to determine if a project is qualified or not, the criteria for which are described in Section 3 above.

   DHCD is committed to assisting local jurisdictions through providing informational resources and guidance. These FAQs will be updated periodically with questions the state is regularly receiving about HB 538 implementation. If you have any questions not addressed in these FAQs, please submit them via the question form.

2. **Is a qualified project required to use a density bonus?**

   No, HB 538 does not impose any mandates on projects. While HB 538 outlines that local jurisdictions must grant "qualified projects" certain benefits (described in Section 3 above), projects have the ability to choose which benefits (if any) to utilize.

3. **Can affordable units under a qualified project be sold to become owner-occupied?**

   Yes, affordable units in a qualified project can be sold to become owner-occupied. HB 538 only requires that units are deed-restricted to be affordable to households at or below 60% of the Area Median Income. Owner-occupied deed restrictions that restrict resale to income-eligible households are a common tool to preserve housing affordability.

4. **How are the affordable unit set-asides enforced?**

   The affordable unit set-asides for qualifying projects are enforced in the legislation by requiring that the projects be deed-restricted to include the affordable dwelling unit set-asides for their full

duration. If a developer or property owner of a qualified project violates the affordable unit set-aside requirement (for example, by converting some of the affordable units to market-rate after five years), the local jurisdiction would have the ability to revoke approval for the project or rescind the density bonus, potentially putting the development in violation of the zoning code and subject to appropriate enforcement. Other methods of enforcement like arbitration between a county government and a developer of a qualified project, or otherwise intervening in the duties of a local planning commission, are not addressed in the legislation.

5. **Do homeowners' associations requirements that would restrict the density or other benefits otherwise allowed to a qualified project still apply?**

   Qualified projects are entitled to three benefits under HB 538: (1) A local government shall allow the density to exceed what is otherwise allowed; (2) A local government shall not impose unreasonable limitations; (3) A local government may not require more public meetings than is outlined in the statute.

   HB 538 does not address or modify any other legal restrictions on a parcel, to include homeowners' associations covenants, that would restrict a qualified project from utilizing its statutory benefits.

Section 5: General Questions on Density Bonuses for Qualified Projects

1. **To calculate the 30% density bonus, should a jurisdiction use the maximum allowed density for the zoning district where the qualified project is located and add 30%? Should the 30% be net density, or gross density?**

   For qualified projects in multifamily, mixed use, or nonresidential zoned areas, jurisdictions should determine which density measurement to use, most appropriately the measurement already established locally for calculating unit density in those zones, and then apply a 30% increase for qualified projects consistently with how density is calculated in their existing zoning. Example density measurements include units per acre or floor area ratio using gross or net density.

2. **HB 538 refers to but does not define areas zoned for "single-family residential use," "multifamily residential use," and "non-residential use." What is included or excluded under these terms?**
    a. Areas zoned for single-family residential use refers to any district in which single-family dwelling units are permitted, rather than only those districts in which single-family uses are solely or predominantly permitted. This does not include agricultural or preserved conservation land as described in number 7 below.
    b. Areas zoned for multifamily residential use refers to any district in which multifamily uses are permitted, rather than only those districts in which multifamily uses are solely or predominantly permitted.
    c. Areas zoned for non-residential use refers to any district in which residential uses are prohibited, such as those exclusively for commercial or industrial uses. HB 538 requires entities responsible for developing a qualified project to conduct and receive DHCD approval of a public health assessment prior to achieving the statutory benefits of HB 538.

3. **HB 538 states that a qualified project in certain zones may consist of mixed-use development. What does this provision mean, and what are its implications?**

    HB 538 defines "mixed-use" as any combination of a residential use with a recreational, office, dining or retail use. HB 538 is explicit that mixed-use does not include the combination of residential uses with an industrial or hazardous use.

    While HB 538 states that qualified projects may include mixed-use components in multifamily and non-residential zones, HB 538 does not limit the application of other local requirements on the non-residential components of a project, such as use percentages or floor area ratio. The provisions of HB 538 that limit the application of other local requirements to qualified projects are specific to requirements that impact the viability, density or degree of affordability of the affordable housing component of a qualified project. This "unreasonable limitation" provision is described in more detail in Section 6.

4. **HB 538 also allows for the building of middle housing in single family zones. How is the maximum density for a qualified project that proposes middle housing calculated?**

   HB 538 allows for qualified projects to build "middle housing" (duplexes, triplexes, quadplexes, cottage clusters and townhouses) in single family zones; in this instance the density bonus is not calculated based on a percentage.

   If the jurisdiction has other provisions that would limit the density in their single-family zones (for example, the single-family zone specifies that only 1 unit per acre is allowed), those additional density restrictions would likely fall under the "unreasonable limitation" provision of HB 538, described in Section 6 below, since the limitation is impacting the density of the qualified project.

5. **Does HB 538 require local jurisdictions to allow an increase in the total unit count for qualified projects seeking to build middle housing in areas zoned for single-family residential uses?**

   Yes, HB 538 states that "a local jurisdiction shall allow the density of a qualified project to exceed the density otherwise authorized in a district or zone." A jurisdiction is required to both permit middle housing units for qualified projects in areas zoned for single-family residential uses and permit a unit density that exceeds what would be allowed under local zoning regulations. A local requirement that prevents the permitted middle housing units of a qualified project from exceeding the density of a non-qualified project may be considered "unreasonable," as further detailed in Section 6 of this document.

6. **Are the density bonuses under HB 538 stackable with local density bonuses?**

   Yes, HB 538 explicitly states that the increased density allowed to qualified projects under HB 538 are in addition to increased density that is allowed or required by a local jurisdiction. For example, jurisdictions should apply their own density bonuses to a qualified project first, and then calculate the 30% increase in unit density permitted by HB 538 after applying the local bonus.

7. **Can multiple HB 538 density bonuses be combined? (For example, could a project receive a density bonus for being on nonprofit land, and an additional density bonus for being within 0.75 miles of a rail station?)**

   No, HB 538 states that if a qualified project is allowed to exceed the density otherwise authorized in a zone under one category of qualified project, it may not also exceed the authorized density under an additional category.

8. **Does this legislation allow housing on agricultural or preserved conservation land?**

   No, the density bonuses under this legislation do not apply to agricultural land subject to an easement or other interest that is permanently conveyed or assigned to the Maryland Agricultural Land Preservation Foundation under section 2-504 of the Agriculture Article of the Maryland Code, or to land that is subject to a perpetual conservation easement.

9. **HB 538 states that qualified projects in non-residential zones must conduct a public health assessment. What is involved in that?**

   Qualified projects seeking to build in a nonresidential zone must conduct a public health assessment and receive approval from the Maryland Department of Housing and Community Development (DHCD). DHCD will adopt regulations that outline the requirements for the public health assessment and the process to receive this approval. These regulations are anticipated to be available for public comment in the fall of 2024.

10. **Are projects that are already underway and meet the criteria for a "qualified project" entitled to the benefits of a qualified project?**

    Yes, however any modification of an existing project must follow any existing laws and processes for project modification.

11. **How does approval of the density bonus for "qualified projects" get incorporated into local processes?**

    HB 538 does not mandate or specify a process for a local jurisdiction to approve qualified projects. Local jurisdictions have the discretion to determine the best method or process to comply with the requirements outlined under HB 538.

12. **Does a local jurisdiction need to update their zoning code to be in compliance with the requirements established in HB 538?**

    HB 538 does not prescribe any changes to local zoning codes and zone classifications. Local jurisdictions have the discretion to determine the best method or process to comply with the requirements outlined under HB 538, which may or may not include an update to the zoning code.

    DHCD encourages jurisdictions to submit requests for state guidance on local zoning code modifications, including types of guidance documents, to the question form.

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Section 6: "Unreasonable" Limitation

1. **HB 538 states a local jurisdiction may not impose any "unreasonable limitation or requirement" on a qualified project. What is the intent of this section?**

   Local jurisdictions advance many important objectives in the zoning code and through other requirements on new construction. The intent of this section is to preserve the flexibility of jurisdictions to apply requirements to qualified projects, so long as those requirements do not result in a reduction of housing or unit affordability.

2. **How is "unreasonable limitation or requirement" defined?**

   An unreasonable limitation or requirement is one that a local jurisdiction places on a qualified project that amounts to a *de facto* denial of the project by having a substantial adverse impact on either 1) the viability of an affordable housing development in a qualified project; 2) the degree of affordability of units in a qualified project; or 3) the allowable density or number of units of the qualified project. Limitations or requirements subject to this provision include but are not limited to height, setback, bulk, parking, loading, dimensional, area, or other requirements.

   Overall, a restriction that would prevent a project from happening at all, reduce the affordability of a project, or that would prevent a project from maximizing the housing density allowed under HB 538 would be considered an "unreasonable limitation."

3. **What are examples of unreasonable limitations or requirements?**

   One example of an unreasonable limitation under HB 538 would be a local jurisdiction's requirement that a qualified project be limited to no more than two stories in height, if the height restriction made it impossible or infeasible to reach the allowable density of units under the density bonus.

   A second would be a requirement that a 60-unit qualified project include 2.5 parking spaces per unit, if the parking requirement had a substantial adverse effect on the viability of the project for the developer, to the point of amounting to a *de facto* denial, because of its cost to the qualified project.

4. **Are impact fees unreasonable requirements?**

   An impact fee could potentially be considered an unreasonable requirement if it is enough to amount to a *de facto* denial of the project because it made the qualified project financially non-viable.

5. **Are regulations or requirements set at the state level included in this provision?**

   The provision that "a local jurisdiction may not impose any reasonable limitations or requirements on a qualified project" does not supersede other aspects of state law that local jurisdictions must comply with. Therefore, requirements established under State law, including building codes, critical areas, and stormwater requirements, are not included in this provision.

6. **Are stormwater requirements included under the unreasonable limitation or requirement provision?**

   Any stormwater requirements established through state law are not included under this provision. However, any local stormwater requirements that are in excess of state requirements would be subject to HB 538's provision on "unreasonableness limitations." A stormwater requirement could be considered an unreasonable requirement if it amounts to a *de facto* denial of a project because it limits the density bonus to a qualified project, or it makes the project financially non-viable for the developer.

7. **Will the State of Maryland arbitrate disputes between local jurisdictions and developers on what limitations are unreasonable?**

   No, HB 538 outlines categories of qualified projects and statutory benefits for those projects. There is no statutory role or other legal role for the State of Maryland executive agencies to determine if a limitation meets the criteria outlined in the legislation.

   DHCD is committed to assisting local jurisdictions through providing informational resources and guidance on the statutory criteria. Any questions not answered in this document can be asked via the question form.

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Section 7: Public Meetings Limitation

1. **How does HB 538 limit public hearings for qualified projects?**

   HB 538 states that, except as otherwise provided or required by state law, a local government may not require that a qualified public project be reviewed at more than two public hearings before the local governing body and the planning commission. Additionally, a local government may not require that a qualified project be reviewed at more than one public hearing before a historic district commission or historic preservation commission; and the board of appeals.

2. **Does the public hearing limitation cover the subdivision process and the hearings associated with those cases?**

   If a jurisdiction requires a public hearing for a subdivision, the public hearing limitation of HB 538 applies.

3. **Will this provision prevent informational community meetings on projects?**

   HB 538 only speaks to the number of public hearings that are required to review a qualified project. It does not limit voluntary informational community meetings.

4. **Does HB 538 limit public hearings at each step in the development process? Or, does the limitation apply to all stages in a development process?**

   HB 538's limitation on public hearings is applied at each stage of the development review process, meaning that a qualified project cannot be reviewed at more than two public hearings during each step. The limitation does not mean that a qualified project is limited to only two public hearings throughout the entire, combined development review process.

5. **HB 538 refers to a limitation for public hearings at the local governing body and the planning commission. Are planning boards included in this limitation?**

   Yes, HB 538 uses the term "Planning Commission" generally. For the purpose of the public hearing limitations, bodies with the same function as a Planning Commission, but with different names, such as Planning Board or Planning Advisory Board, are included. These bodies are distinct, however, from Boards of Appeals or Boards of Zoning Appeals, which have their own public hearing limitation as described in Section 7-506 (B) (2) of HB 538.

6. **What counts as a "public hearing"?**

   A "public hearing" may include any hearing or meeting that is open to the public and is a requirement of the development approval process for a qualified project.

7. **Does the continuation of meetings across several nights count as 1 meeting?**

   A meeting that takes place across multiple days will count as a single meeting if it is considered a single meeting under the existing procedures for the body holding the public hearing.