

Bill No. 38-09
Concerning: Growth Policy -
Amendments
Revised: 10-30-09 Draft No. 2
Introduced: November 3, 2009
Expires: May 3, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Floreen and Knapp

AN ACT to:

- (1) rename the County Growth Policy and modify its purposes; and
- (2) revise the process to adopt and amend the County Growth Policy, and conform related laws.

By amending

Montgomery County Code
Chapter 33A, Planning Procedures.
Section 33A-15, Growth Policy

Chapter 52, Taxation
Sections 52-47, 52-49, and 52-94

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

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 33A-15 is amended as follows:**

2 **33A-15. [Growth] Subdivision Staging Policy.**

3 (a) *Purpose.*

4 [(1) The purpose of this Article is to establish a process by which the
5 County Council can give policy guidance to agencies of
6 government and the public on matters concerning:

7 (A) land use development;

8 (B) growth management; and

9 (C) related environmental, economic, and social issues.

10 (2) The policy guidance will be provided through the adoption by the
11 County Council of a growth policy, which is intended to be an
12 instrument that facilitates and coordinates the use of the powers
13 of government to limit or encourage growth and development in a
14 manner that best enhances the general health, welfare, and safety
15 of the residents of the County.]

16 [(b) *Simplified description.*]

17 The County Council must adopt a [growth] subdivision staging policy
18 [must be adopted] every [2] 4 years [by the County Council]. [It
19 consists of policy] The policy must include guidelines for the Planning
20 Board, and other agencies as appropriate, for their administration of
21 Section 50-35(k) and other laws and regulations which affect the
22 adequacy and timing of public facilities needed to support growth and
23 development. This policy is the growth policy referred to in Article 28
24 of the Maryland Code and in Section 50-35(k) and elsewhere in the
25 County Code.

26 [(c)] (b) Duties of the County Planning Board.

27 Every [odd-numbered] fourth year, in the second year of a Council

28 term, the Planning Board must produce a recommended [growth]
29 subdivision staging policy.

30 (1) By June 15, the [Planning] Board must send to the [County]
31 Council a staff draft [growth] subdivision staging policy which
32 includes:

33 (A) a status report on general land use conditions in the county,
34 including the remaining growth capacity of zoned land,
35 recent trends in real estate transactions, the level of service
36 conditions of major public facilities and environmentally
37 sensitive areas, and other relevant monitoring measures;

38 (B) a forecast of the most probable trends in population,
39 households, and employment for the next 10 years,
40 including key factors that may affect the trends;

41 (C) a recommended set of [policy] guidelines for the
42 [Planning] Board, and other agencies as appropriate, with
43 respect to subdivision staging and administration of related
44 laws and regulations which affect growth and
45 development; and

46 (D) any other information or recommendations relevant to
47 [growth] subdivision staging policy, or requested by the
48 [County] Council in the course of adopting the [growth]
49 subdivision staging policy or by a later resolution.

50 (2) By August 1, the Board must [produce] approve and send to the
51 Council a recommended [growth] subdivision staging policy
52 [which reflects the Planning Board's views].

53 (3) The [Planning] Board must promptly make available to the
54 County Executive, other agencies (including the Office of Zoning

55 and Administrative Hearings and the People's Counsel), and the
 56 public copies of the staff draft and the Board's recommended
 57 [growth] subdivision staging policy.

58 [(d)] (c) *Duties of the County Executive.*

59 (1) Every [odd-numbered] fourth year, in the second year of a
 60 Council term, the [County] Executive must send to the [County]
 61 Council by September 15 any revisions to the [growth]
 62 subdivision staging policy recommended by the Planning Board
 63 in the form of specific additions and deletions.

64 (2) The [County] Executive must promptly make available to the
 65 Planning Board, other agencies, and the public copies of the
 66 [County] Executive's recommendations.

67 (3) The [County] Executive must assist the Planning Board to
 68 compile its status report for the recommended [growth]
 69 subdivision staging policy by making available monitoring data
 70 which is routinely collected by executive branch departments.

71 [(e)] (d) *Duties of the County Board of Education.*

72 (1) Every [odd-numbered] fourth year, in the second year of a
 73 Council term, the Board of Education must send to the [County]
 74 Council by [October 1] September 15 any comments on the
 75 recommended [growth] subdivision staging policy submitted by
 76 the Planning Board and the Executive's recommendations,
 77 including any proposed revisions in the form of specific additions
 78 or deletions.

79 (2) The Board of Education must promptly make available to the
 80 Planning Board, the [County] Executive, and the public copies of
 81 these comments and revisions.

82 (3) The Board of Education must assist the Planning Board to
 83 compile its status report for the [growth] subdivision staging
 84 policy by making available monitoring data which is routinely
 85 collected by Montgomery County Public Schools staff.

86 [(f)] *Duties of the Washington Suburban Sanitary Commission.*

87 (1) Every odd-numbered year, the Washington Suburban Sanitary
 88 Commission must send to the County Council by October 1 any
 89 comments on the recommended growth policy submitted by the
 90 Planning Board and the Executive's recommendations, including
 91 any proposed revisions in the form of specific additions or
 92 deletions.

93 (2) The Commission must promptly make available to the Planning
 94 Board, the County Executive, and the public copies of these
 95 comments and revisions.

96 (3) During the year, the Commission must assist the Planning Board
 97 to compile its status report for the growth policy by making
 98 available monitoring data which is routinely collected by
 99 Commission staff.]

100 [(g)] (e) *Duties of the County Council.*

101 (1) After receiving the recommended [growth] subdivision staging
 102 policy, the recommendations of the [County] Executive, and any
 103 other agency comments, the [County] Council must hold a public
 104 hearing on the recommendations and comments.

105 (2) Every [odd-numbered] fourth year, in the second year of a
 106 Council term, the [County] Council must adopt by November 15
 107 a [growth] subdivision staging policy to be effective until
 108 November 15 [two] four years later. If the [County] Council

109 does not adopt a new [growth] subdivision staging policy, the
110 [growth] subdivision staging policy adopted most recently
111 remains in effect.

112 [(h)] (f) *Amending the [growth] subdivision staging policy.*

113 (1) The County Council, the County Executive, or the Planning
114 Board may initiate an amendment to the [growth] subdivision
115 staging policy.

116 (2) If the Executive initiates an amendment:

117 (A) the Executive must send it to the Council, the Planning
118 Board, and other agencies, and make copies available to
119 the public;

120 (B) the Planning Board must send any comments on the
121 proposed amendment to the Council and the other agencies
122 within 45 days after receiving the amendment (unless the
123 Council requests an earlier response), and must make
124 copies of any comments available to the public; and

125 (C) the Council may amend the [growth] subdivision staging
126 policy after giving the Planning Board and Board of
127 Education an opportunity to comment and holding a public
128 hearing.

129 (3) If the Planning Board initiates an amendment:

130 (A) the Planning Board must send it to the Council, the
131 Executive, and other agencies, and make copies available
132 to the public;

133 (B) the Executive must send any comments on the proposed
134 amendment to the Council and other agencies within 45
135 days after receiving the amendment (unless the Council

136 requests an earlier response), and must make copies of any
 137 comments available to the public; and

138 (C) the Council may amend the [growth] subdivision staging
 139 policy after giving the Executive and Board of Education
 140 an opportunity to comment and holding a public hearing.

141 (4) If the [County] Council initiates an amendment:

142 (A) the Council must send it to the Executive, the Planning
 143 Board, and other agencies, and make copies available to
 144 the public;

145 (B) the Executive and the Planning Board must send any
 146 comments on the proposed amendment to the Council and
 147 other agencies within 45 days after receiving the
 148 amendment (unless the Council requests an earlier
 149 response), and must make copies of any comments
 150 available to the public; and

151 (C) the [County] Council may amend the [growth] subdivision
 152 staging policy after a public hearing.

153 (5) If it finds that an emergency so requires, the [County] Council
 154 may hold the public hearing and adopt an amendment before
 155 receiving comments under subparagraphs (2)(B), (3)(B), or
 156 (4)(B).

157 **Sec. 2. Sections 52-47, 52-49, and 52-94 are amended as follows:**

158 **52-47. Definitions.**

159 * * *

160 *Growth policy* means the [annual growth] subdivision staging policy most
 161 recently adopted under Chapter 33A to provide guidelines for the
 162 administration of the Adequate Public Facilities Ordinance.

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[*Planning policy*] Policy area means any geographic area designated as a transportation policy area in the growth policy.

* * *

52-49. Imposition and applicability of development impact taxes.

* * *

(c) The following impact tax districts are established, consisting of the listed [Planning] Policy Areas as defined in the Growth Policy:

* * *

(3) General: Any part of the County, including any municipality, not located in a listed [planning] policy area.

* * *

52-94. School Facilities Payment.

(a) In addition to the tax due under this Article, an applicant for a building permit for any building on which a tax is imposed under this Article must pay to the Department of Finance a School Facilities Payment if that building was included in a preliminary plan of subdivision that was approved under the School Facilities Payment provisions in the County [Growth] Subdivision Staging Policy.

(b) The amount of the Payment for each building must be calculated by multiplying the Payment rate by the latest per-unit student yield ratio for any level of school found to be inadequate for the purposes of imposing the School Facilities Payment in the applicable [Growth] Subdivision Staging Policy and for that type of dwelling unit and geographic area issued by MCPS.

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189 *Approved:*

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Philip M. Andrews, President, County Council

Date

192 *Approved:*

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Isiah Leggett, County Executive

Date

195 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date