

Bill No. 38-09
Concerning: Growth Policy -
Amendments
Revised: 7-20-10 Draft No. 3
Introduced: November 3, 2009
Enacted: July 20, 2010
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: Policy.*

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

19 (A) land use development;

20 (B) growth management; and

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

22 (2) The policy guidance will be provided through the adoption by the
23 County Council of a subdivision staging policy, which is
24 intended to be an instrument that facilitates and coordinates the
25 use of the powers of government to limit or encourage growth
26 and development in a manner that best enhances the general
27 health, welfare, and safety of the residents of the County.

28 [(b) *Simplified description.*]

29 (3) The County Council must adopt a [growth] subdivision staging
 30 policy [must be adopted] every [2] 4 years [by the County
 31 Council]. [It consists of policy] The policy must include
 32 guidelines for the Planning Board, and other agencies as
 33 appropriate, for their administration of Section 50-35(k) and other
 34 laws and regulations which affect the adequacy and timing of
 35 public facilities needed to support growth and development. This
 36 policy is the growth policy referred to in Article 28 of the
 37 Maryland Code and in Section 50-35(k) and elsewhere in the
 38 County Code.

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

40 Every [odd-numbered] fourth year, in the second year of a Council
 41 term, the Planning Board must produce a recommended [growth]
 42 subdivision staging policy.

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

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

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

54 (C) a recommended set of [policy] guidelines for the

55 [Planning] Board, and other agencies as appropriate, with
 56 respect to subdivision staging and administration of related
 57 laws and regulations which affect growth and
 58 development; and

59 (D) any other information or recommendations relevant to
 60 [growth] subdivision staging policy, or requested by the
 61 [County] Council in the course of adopting the [growth]
 62 subdivision staging policy or by a later resolution.

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

66 (3) The [Planning] Board must promptly make available to the
 67 County Executive, other agencies (including the Office of Zoning
 68 and Administrative Hearings and the People's Counsel), and the
 69 public copies of the staff draft and the Board's recommended
 70 [growth] subdivision staging policy.

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

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

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

80 (3) The [County] Executive must assist the Planning Board to
 81 compile its status report for the recommended [growth]

82 subdivision staging policy by making available monitoring data
83 which is routinely collected by executive branch departments.

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

85 (1) Every [odd-numbered] fourth year, in the second year of a
86 Council term, the Board of Education must send to the [County]
87 Council by [October 1] September 15 any comments on the
88 recommended [growth] subdivision staging policy submitted by
89 the Planning Board and the Executive's recommendations,
90 including any proposed revisions in the form of specific additions
91 or deletions.

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

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

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

100 (1) Every odd-numbered year, the Washington Suburban Sanitary
101 Commission must send to the County Council by October 1 any
102 comments on the recommended growth policy submitted by the
103 Planning Board and the Executive's recommendations, including
104 any proposed revisions in the form of specific additions or
105 deletions.

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

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

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

114 (1) After receiving the recommended [growth] subdivision staging
115 policy, the recommendations of the [County] Executive, and any
116 other agency comments, the [County] Council must hold a public
117 hearing on the recommendations and comments.

118 (2) Every [odd-numbered] fourth year, in the second year of a
119 Council term, the [County] Council must adopt by November 15
120 a [growth] subdivision staging policy to be effective until
121 November 15 [two] four years later. If the [County] Council
122 does not adopt a new [growth] subdivision staging policy, the
123 [growth] subdivision staging policy adopted most recently
124 remains in effect.

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

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

129 (2) If the Executive initiates an amendment:

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

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

- 136 Council requests an earlier response), and must make
 137 copies of any comments available to the public; and
 138 (C) the Council may amend the [growth] subdivision staging
 139 policy after giving the Planning Board and Board of
 140 Education an opportunity to comment and holding a public
 141 hearing.
- 142 (3) If the Planning Board initiates an amendment:
- 143 (A) the Planning Board must send it to the Council, the
 144 Executive, and other agencies, and make copies available
 145 to the public;
- 146 (B) the Executive must send any comments on the proposed
 147 amendment to the Council and other agencies within 45
 148 days after receiving the amendment (unless the Council
 149 requests an earlier response), and must make copies of any
 150 comments available to the public; and
- 151 (C) the Council may amend the [growth] subdivision staging
 152 policy after giving the Executive and Board of Education
 153 an opportunity to comment and holding a public hearing.
- 154 (4) If the [County] Council initiates an amendment:
- 155 (A) the Council must send it to the Executive, the Planning
 156 Board, and other agencies, and make copies available to
 157 the public;
- 158 (B) the Executive and the Planning Board must send any
 159 comments on the proposed amendment to the Council and
 160 other agencies within 45 days after receiving the
 161 amendment (unless the Council requests an earlier
 162 response), and must make copies of any comments

163 available to the public; and

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

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

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

171 **52-47. Definitions.**

172 * * *

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

176 * * *

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

179 * * *

180 **52-49. Imposition and applicability of development impact taxes.**

181 * * *

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

184 * * *

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

187 * * *

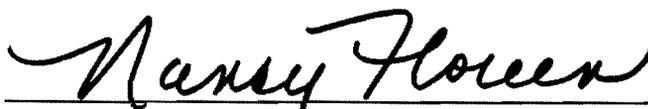
188 **52-94. School Facilities Payment.**

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

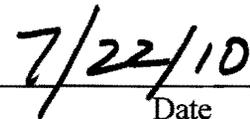
195 (b) The amount of the Payment for each building must be calculated by
196 multiplying the Payment rate by the latest per-unit student yield ratio for
197 any level of school found to be inadequate for the purposes of imposing
198 the School Facilities Payment in the applicable [Growth] Subdivision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

201 * * *

202 *Approved:*

203
204 

Nancy Floreen, President, County Council


Date

205 *Approved:*

206
207

Isiah Leggett, County Executive

Date

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

209
210

Linda M. Lauer, Clerk of the Council

Date