

Ordinance No. _____
Subdivision Regulation Amend. No. 11-01
Concerning: Adequate Public Facilities –
Preliminary Subdivision Plans –
Validity Period
Revised: 01/07/11 Draft No. 2
Introduced: January 18, 2011
Public Hearing: _____
Adopted: _____
Effective: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Ervin, Councilmember Floreen, Council Vice President Berliner, and
Councilmembers Leventhal and Navarro

AN AMENDMENT to:

- (1) extend the validity period for a determination of adequate public facilities for certain developments;
- (2) extend the validity period for certain preliminary subdivision plans; and
- (3) otherwise revise the validity period for certain developments.

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Sections 50-20 and 50-35

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>

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following Ordinance:

Sec. 1. Section 50-20 and Section 50-35 are amended as follows:

50-20. Limits on issuance of building permits.

* * *

(c) * * *

(3) (A) A determination of adequate public facilities made under this Chapter is timely and remains valid:

(i) for 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;

(ii) for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after October 19, 1999, but before August 1, 2007;

(iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, [2011] 2013; and

(iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan

23 approved on or after August 1, 2007, and before
24 April 1, 2009, or on or after April 1, [2011] 2013.

25 * * *

26 (4) The Planning Board may extend a determination of adequate
27 public facilities for an exclusively residential subdivision
28 beyond the otherwise applicable validity period if the
29 Department has issued building permits for at least 50 percent
30 of the entire subdivision before the application for extension is
31 filed. The Board may approve one or more extensions if the
32 aggregate length of all extensions for the development do not
33 exceed:

34 (A) for a preliminary plan approved before April 1, 2009, or
35 on or after April 1, [2011] 2013:

36 (i) 2½ years for a subdivision with an original validity
37 period of 5 years; or

38 (ii) 6 years for a subdivision with an original validity
39 period longer than 5 years; and

40 (B) for a preliminary plan approved on or after April 1, 2009,
41 and before April 1, [2011] 2013:

42 (i) 2½ years for a subdivision with an original validity
43 period of 7 years; or

44 (ii) 6 years for a subdivision with an original validity
45 period longer than 7 years.

46 * * *

47 **50-35. Preliminary subdivision plans-Approval procedure.**

48 * * *

49 (h) *Duration of Validity Period and Actions Required to Validate the Plan.*

50 * * *

51 (2) *Duration of Validity Period.*

52 (A) An approved preliminary plan for a single phase project
53 remains valid for 60 months after its Initiation Date for any
54 preliminary plan approved on or after April 1, 2009, but
55 before April 1, [2011] 2013, and for 36 months after its
56 Initiation Date for any preliminary plan approved on or
57 after April 1, [2011] 2013. Before the validity period
58 expires, the applicant must have secured all government
59 approvals necessary to record a plat, and a final record plat
60 for all property delineated on the approved preliminary
61 plan must have been recorded in the County land records.

62 (B) An approved preliminary plan for a multi-phase project
63 remains valid for the period of time allowed in the phasing
64 schedule approved by the Planning Board. [Each phase
65 must be assigned] The Planning Board must assign each
66 phase a validity period on a case-by-case basis, the
67 duration of which [must be proposed by] the applicant
68 must propose as part of an application for preliminary plan
69 approval, [or for preliminary plan] revision, or amendment,
70 [and approved on a case-by-case basis by the Planning
71 Board,] after considering such factors as the size, type, and
72 location of the project. The time allocated to any phase
73 must not exceed 60 months after the initiation date for that
74 particular phase for any preliminary plan approved on or

75 after April 1, 2009, but before April 1, [2011] 2013, and
 76 36 months after the initiation date for that particular phase
 77 for any preliminary plan approved on or after April 1,
 78 [2011] 2013. The cumulative validity period of all phases
 79 must not exceed the APFO validity period which [runs
 80 from] begins on the date of the initial preliminary plan
 81 approval, including any extension granted under Section
 82 50-20(c)(5). A preliminary plan for a phase is validated
 83 when a final record plat for all property delineated in that
 84 phase of the approved preliminary plan is recorded in the
 85 County land records.

86 * * *

87 **Sec. 2. Effective Date.** This amendment takes effect on April 1, 2011.

88 **Sec. 3. Automatic Extensions.**

89 (a) Notwithstanding any provision of Section 50-20(c) to the contrary, the
 90 validity period of any determination of adequate public facilities that
 91 was valid on March 31, 2009, or for which a timely application for an
 92 extension of the validity period was pending on March 31, 2009, is
 93 automatically extended for 4 years after the date when the validity
 94 period would otherwise have expired. This 4-year extension includes
 95 any extension granted automatically by Ordinance 16-35 and must be
 96 treated for all purposes as part of the validity period that was extended.

97 (b) Notwithstanding any provision of Section 50-35(h) to the contrary, the
 98 validity period of any preliminary subdivision plan that was valid on
 99 March 31, 2009, or for which a timely application for an extension of
 100 the validity period was pending on March 31, 2009, including any

101 separate phase of a multi-phase plan, is automatically extended for 4
102 years after the date when the validity period would otherwise have
103 expired. This 4-year extension includes any extension granted
104 automatically by Ordinance 16-35 and must be treated for all purposes
105 as part of the validity period that was extended.

106 (c) Notwithstanding any provision of Section 50-20(c) to the contrary, the
107 validity period of any determination of adequate public facilities that
108 was valid on March 31, 2011, or for which a timely application for an
109 extension of the validity period was pending on March 31, 2011, is
110 automatically extended for 2 years after the date when the validity
111 period would otherwise have expired. This 2-year extension must be
112 treated for all purposes as part of the validity period that was extended.

113 (b) Notwithstanding any provision of Section 50-35(h) to the contrary, the
114 validity period of any preliminary subdivision plan that was valid on
115 March 31, 2011, or for which a timely application for an extension of
116 the validity period was pending on March 31, 2011, including any
117 separate phase of a multi-phase plan, is automatically extended for 2
118 years after the date when the validity period would otherwise have
119 expired. This 2-year extension must be treated for all purposes as part
120 of the validity period that was extended.

121 *Approved:*

122
123 _____
Isiah Leggett, County Executive

_____ Date

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

125
126 _____
Linda M. Lauer, Clerk of the Council

_____ Date