

**MEMORANDUM**

July 14, 2016

TO: Planning, Housing, and Economic Development Committee

FROM:  Jeff Zyontz, Senior Legislative Analyst

SUBJECT: Subdivision Regulation Amendment 16-01, Subdivision Regulations Rewrite, Worksession 3

At the Committee's direction, staff made changes to SRA 16-01 as introduced. Those changes are in the attached document in legislative format. All departments involved (Planning, Permitting Services, and Transportation) are content with the draft as amended. It resolves **all** issues raised by their prior testimony in a manner consistent with the Committee's recommendation. It provides a path for the approval of private roads and ownership units that avoids what could have been road blocks in the development process.

**Private Roads**

The most significant unresolved issue from the Committee's June 20 meeting was the circumstances under which a private road would be allowed for a business district street. The department heads agreed to the following provision:

*A Business District road may be a private road only when it is not required to provide an adequate traffic level of service. A private Business District street may be approved only when the proposed road is not either a connector between two higher classification roads or a road that is planned to extend beyond the boundary of the preliminary plan.*

This revised provision is consistent with the private roads that the Board has recently approved.

The revised draft also attempts to accommodate the County's interest in providing ultra-fast data connections to buildings.<sup>1</sup> As part of the public facilities section, the department heads recommended adding the following provision:

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<sup>1</sup> This is not an issue when a public right-of-way is required.

*Easements. The Board must require the applicant to provide area for future installation or relocation of utilities adjacent to public and private roads, or in other appropriate locations within the development site.*

The details of this provision will be resolved with each plan.

Under the revised amendment, all private roads would be subject to a covenant that describes the rights and responsibilities of the private road owners. In particular, the department heads recommend the following provision be included:

*All private roads must be recorded with a restrictive covenant approved by the Board that at a minimum ensures:*

- i. that the road is designed and constructed in a manner that satisfies the requirements of this Chapter, and all requirements made by the Montgomery County Fire Marshal for emergency access, egress, and apparatus;*
- ii. regular maintenance of the road by the property owner, with certification of regular inspections, and appropriate financial reserves required for short- and long-term maintenance and capital repairs;*
- iii. that the road remains open at all times unless approved by the Department of Permitting Services and the Fire Marshal; and*
- iv. that the County and the Commission must be fully indemnified from all liability claims, demands, losses, or damages to person or property.*

### **Ownership units**

The reasons given by the private sector for ownership units are the same reasons the property owners create lots. The rationale starts out being to create financing lines. To be useful, such lines would avoid creating zoning setback requirements. These “lots” have turned into full ownership and control, with cross easements for all descendants of the original lot. It would allow a sale of land and improvements, not just financing the improvements. The Department of Permitting Services had expressed concern about possible fire code and health/safety (air intake) problems when these lines are created without review. The concerns over ownership units were resolved to the satisfaction of department heads. The proposed provisions allow for ownership units to be created by a separate plat.

*Ownership units to reflect deed, mortgage, or lease lines may be created by an ownership plat if:*

- a. the lot on which the ownership units are created is included on a plat approved by the Board and has site plan approval under Section 59-7.3.4;*
- b. the location and design of all structures on the ownership units satisfy Chapters 8, 19, and Chapter 22;*
- c. the ownership units do not violate any other provision of law or adversely affect any conditions of approval for the subdivision plan that created the underlying lot, or for the site plan;*
- d. any necessary cross easements, covenants, or other deed restrictions necessary to implement all conditions of approval are executed before recording the ownership plat; and*

- e. *the ownership units are suitable for the type of development, the use contemplated, and the available utilities and services.*

### **Keeping Chapter 50 from overriding other Code chapters**

As introduced, SRA 16-01 would prohibit an agency from requiring a substantial change in the plan. No agency makes a change to an approved plan without a substantial reason to do so. There are occasions where a change may be required by state law. For example, the state law provisions for stormwater facilities grandfather some approved plans but not all approved plans. State law may require action, which SRA 16-01 as introduced would prevent. The department heads resolved this situation by requiring the applicant to seek a preliminary plan amendment if another agency requires a change:

*The Board must approve a resolution containing findings supporting its decision. Following approval of a preliminary plan by the Board, any substantial change in the plan required by another agency must be allowed by the Board's conditions of approval or a plan amendment under Section 4.2.F.*

### **New issue raised on Hearing Date Schedule**

SRA 16-01 establishes a time limit for staff to review plans and get them to the Planning Board. A timeline is possible when the plan applications are reviewed for completeness, and the clock starts after that review. Planning Staff is responsible for the completeness review. The issue was raised that, while Planning Staff's intake review checklist includes items needed by other agencies in doing their review (such as storm drain analyses that are part of the road plans), the intake staff do not necessarily have the expertise to determine if the information is complete before accepting it.<sup>2</sup> Since the hearing date must be set when the application is accepted, the agency would lose part of their review time due to an incomplete submittal. To address this, a request was made to change the requirements in both the proposed Chapter 50 and existing Chapter 59 that a public hearing be scheduled within 120 days after an application is accepted, to within 120 days from the date of a scheduled Development Review Committee meeting. Department Heads did not object to this recommendation.

Staff notes that the existing language provides options for the Planning Director or Board to postpone the hearing date and extend the review time, which can be used to provide the extra time needed to deal with incomplete information. Staff has no doubt that the request of a reviewing agency to extend the review time would be honored. *The Committee may wish to review this recommendation.*

### **Minutes from the PHED meeting on June 20, 2016**

On June 20, 2016, the Committee recommended adding the following provisions to establish when private roads should be allowed:

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<sup>2</sup> This discussion was held at the end of a 3 hour meeting with department heads, in a 90 degree room with improper air circulation.

- In general, creation of public roads is preferred in all circumstances; a developer must justify the use of a private road based upon the criteria below and the specific circumstances of the property being developed.
  - Justification for a private road:
    - must include a list of proposed design elements that cannot be accommodated using a context-sensitive road design standard or modified under a Design Exception; and
    - must not be based solely on the installation of non-standard amenities that could be addressed under a Maintenance & Liability Agreement with the County.
  
- The following roads must always be public, unless otherwise specifically recommended to be private in a master plan:
  - Freeway
  - Major Highway
  - Arterial (any kind)
  - Parkway
  - Country
  - Primary Residential
  - Principal Secondary
  - Rustic/Exceptional Rustic.
  
- Consideration may be given to making the following roads private:
  - Business District
  - Industrial
  - Secondary
  - Tertiary
  - Alley.

<b>Other Criteria for Private Roads</b>	
<b>Road Classification</b>	<b>Requirements that must be satisfied to allow a private road in lieu of a public road.</b>
Business District	<input type="checkbox"/> TO BE DETERMINED
Industrial	<input type="checkbox"/> Only when the proposed road is part of a network of roads internal to the industrial site. <input type="checkbox"/> Only when the proposed road is not a connector street between higher classification roads.
Secondary	<input type="checkbox"/> Only when the proposed road connects to no more than one higher classification road. <input type="checkbox"/> Only when the road does not need to be extended onto adjacent property to facilitate a future subdivision of the adjacent land.
Tertiary	<input type="checkbox"/> When the road is a cul-de-sac, it must be less than 500' in length.
Alley	<input type="checkbox"/> No access easement if the alley only serves one building. <input type="checkbox"/> No access easement if the alley is a secondary access to one-family residential dwellings (i.e., residential lots front another road but have garages off the alley).

The Committee requested provisions to require third party certification of the safety and construction quality of any private road that does not require a permit. Any bridge required to span an underground structure would require DPS permits and inspections.

The Committee recommends removing many of the reasons the private sector is demanding private roads:

MCDOT's design exception process and procedure should change as indicated by the MCDOT Director:

- Allowed exceptions should be published and available to other developers without going through the exception process. (This would include urban corner truncation standards and private maintenance and liability agreements.)
- There should be a known processing time for new exceptions, including requests for context sensitive design accommodations.

Staff was directed to draft a ZTA to put public roads on a more equal footing. Setbacks can always be established in the site plan approval process.

The Committee recommended the APFO provisions as introduced.

Ownership lot

The Committee agreed with a provision proposed by DPS:

Ownership lot owners must be required to maintain compliance with Chapter 8 and Chapter 22 in the design and location of all structures. Building permits for ownership lots should be required to show all buildings and access on the parent lot from which the ownership lot was divided.

Codification of Minimum Spacing between Intersections

The Committee recommended revising DOT’s recommended table to address the minimum spacing between intersections by deleting the design speed column. The Committee recommended table is as follows.

<b>Classification of the Frontage Road</b>	<b>Locale</b>	<b>Distance between Intersections (feet)</b>
Tertiary Residential	All	150
Secondary Residential	Urban	200
	Suburban	200
	Rural	200
Primary Residential and Principal Secondary	Urban	300
	Suburban	400
	Rural	400
Business District	Urban	300*
	Suburban	400*
	Rural	400*
Industrial	Urban	300*
	Suburban	400*
	Rural	400*
Country Road	Suburban	400
	Rural	400
Country Arterial	Rural	800

<b>Classification of the Frontage Road</b>	<b>Locale</b>	<b>Distance between Intersections (feet)</b>
Minor Arterial	Urban	300
	Suburban	500
	Rural	800
Arterial	Urban	300*
	Suburban	600*
	Rural	800*
Major Highway	Urban	300*
	Suburban	800*
	Rural	1000*
Controlled Major Highway	Urban	300*
	Suburban	1000*
	Rural	1000*
Parkway	Urban	300*
	Suburban	600*
	Rural	800*

\*NOTE: Median breaks on divided roadways are to be spaced no closer than six hundred (600) feet.

However, when the Board finds that a greater or lesser spacing is appropriate, the Board may specify a greater or lesser spacing than otherwise required after considering the recommendation of the Department of Transportation. A design exception from MCDOT would not be required with Planning Board approval. A driveway entrance is not an intersection.

### **Traffic Management Agreements**

The Committee did not recommend including in the code the detailed contents of traffic management agreements as proposed by MCDOT.

This Packet Contains  
SRA 16-01 Revised

Circle Number  
1 – 107

Subdivision Regulation Amendment No.: 16-01  
Concerning: Subdivision Regulations Rewrite  
Draft No. & Date: 5 – 07/14/16  
Introduced: January 12, 2016  
Public Hearing: February 23, 2016  
Adopted:  
Effective:  
Ordinance No:

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

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Lead Sponsor: Council President Floreen at the request of the Planning Board

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**AN AMENDMENT to:**

All subdivision regulations in the County Code

By deleting all of Chapter 50, Subdivision of Land; and

Replacing Chapter 50, Subdivision of Land

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</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:*

1        **Sec. 1.** Chapter 50 is repealed.

2        **Sec. 2.** Chapter 50 is replaced as follows:

3        **Chapter 50. SUBDIVISION OF LAND**

4        **Article I. In General**

5        **Division 50.1. Purpose**

6        **Section 1.1. Purpose of Chapter 50**

7        This Chapter provides for the legal division and subsequent transfer of land. The  
8        intent of this Chapter is to facilitate harmonious development and promote the  
9        health, safety, and welfare of the present and future inhabitants of the Maryland-  
10       Washington Regional District within Montgomery County under the General Plan.  
11       In particular, this Chapter provides a means to coordinate new transportation  
12       facilities with other existing and planned facilities and make a determination of  
13       adequate public facilities, land for public use, and the protection of natural  
14       resources and sensitive environmental features.

15       **Division 50.2. Interpretation and Defined Terms**

16       **Section 2.1. Rules of Interpretation**

17       The following rules of interpretation apply to this Chapter.

18       A. *How to Compute Periods Measured in Months.* If a period of time is  
19       measured in months, the period begins and ends on the same day of a month;  
20       however, if there are not enough days in the final month for this to be  
21       possible, the period ends on the final day of the final month.

22       B. *How to Compute Periods Measured in Days.* If this Chapter requires or  
23       allows a person to perform an act within a specific time period measured in  
24       days, the person must compute the deadline in the following manner:

- 25       1.    If the period follows an event, count the day after the event as the first  
26             day of the period.

27        2. Count the remaining number of calendar days in the period; however,  
28        if the period is 7 days or fewer, omit Saturdays, Sundays, and legal  
29        holidays.

30        3. Do not count the last day if it is a Saturday, Sunday, legal holiday, or  
31        if the office where the person must file a document or perform an act  
32        is not open during the regular hours of that office on that day.

33    C. *Requirements to Act by a Specific Date.*

34        1. If the law requires or allows a person to perform an act by a specific  
35        date, but the specific date is a Saturday, Sunday, or legal holiday, the  
36        person may perform the act on the next day that is not a Saturday,  
37        Sunday, or legal holiday.

38        2. Any action required to be taken within a specific time period is  
39        measured from the date of a final agency action, or, if a party seeks  
40        judicial review of the agency action, from the date the court makes a  
41        final decision.

42    D. *Signatures.* The signature of a person may be the actual signature of the  
43        person or a mark that the person has authorized.

44    E. *Singular and Plural.* The singular includes the plural and the plural includes  
45        the singular.

46    F. *Tense.* The present tense includes the future tense.

47    G. *Use of "Or".* "Or" indicates that the connected items, conditions, provisions,  
48        or events may apply singularly or in any combination.

49    H. *Use of "Includes".* "Includes" does not limit a term to the specific examples.

50    I. *Titles of Articles, Divisions, and Sections.* Titles and captions are not part of  
51        the law. They only advise the reader of the content of each Article, Division,  
52        or Section.

53    J. *Use of "Chapter".* "Chapter" means a numbered section in the Montgomery  
54        County Code.

55 K. Use of "Section". In this Chapter, "Section" means section or subsection, as  
56 the context indicates.

57 L. Use of "In Writing". In this Chapter, written communication includes  
58 electronic communication.

59 M. Reference to County Standards. For infrastructure under the jurisdiction of  
60 State or local municipalities, references in these regulations to County  
61 standards, policy, and procedures include the applicable standards, policy,  
62 and procedures of the agency responsible for maintaining the infrastructure.

63 **Section 2.2. Definitions**

64 All terms used in this Chapter that are defined in Chapter 59 or Chapter 49 have  
65 the same meanings as the definitions in those Chapters, unless otherwise defined  
66 here. In this Chapter, the following words and phrases have the meanings  
67 indicated.

68 A.

69 Adequate Public Facilities Ordinance (APFO): Section 4.3.J of this Chapter,  
70 which specifies that the Board must find that public facilities will be adequate to  
71 support and serve a proposed subdivision before approval.

72 Administrative Civil Penalty: A monetary penalty imposed by the Board after  
73 considering the factors in this Chapter for violating a Board action.

74 Administrative Subdivision Plan: A plan for a proposed subdivision prepared and  
75 submitted for [[Director]] the Director's approval before the preparation of a plat.

76 Agricultural Land: Land classified in the Agricultural Reserve zone established by  
77 Division 4.2 of Chapter 59; and land in other zones containing at least 25 acres  
78 devoted to an agricultural use as defined in Chapter 59.

79 Applicant, Developer or Subdivider: An individual, partnership, corporation, or  
80 other legal entity and its agent that undertakes the subdivision of land or the  
81 activities covered by this Chapter. The terms include all persons involved in  
82 successive stages of the project, even though such persons may change and  
83 ownership of the land may change. Each term includes the other.

84 B.

85 *Bikeshare Station or Stations:* A designated area on publicly or privately owned  
86 real property that contains one or more of the following items: bikeshare dock,  
87 terminal, technical platform, battery, and map frame.

88 *Bicycle Facilities:* Any infrastructure or amenity required to provide for or enhance  
89 use of bicycles for transportation or recreational purposes by the public, including  
90 but not limited to the following: bikeways, bicycle parking equipment or  
91 structures, bicycle repair stands, bikeshare stations, and end-of-trip services such as  
92 showers and changing rooms.

93 *Board:* The Montgomery County Planning Board of the Maryland-National Capital  
94 Commission.

95 *Block:* Land area bounded by roads, other rights-of-way, unsubdivided acreage,  
96 natural barriers, and any other barrier to the continuity of development.

97 *Building Restriction Line:* A line designating an area in which development or  
98 building is prohibited by the Board under Section 50.4.3.K of these regulations.

99 C.

100 *Citation:* A document noting a violation of a Board action, seeking to impose a  
101 civil fine or corrective action.

102 *Civil Fine:* A requirement to pay a predetermined sum of money specified in an  
103 administrative citation for violating a Board action.

104 *Commission:* The Maryland-National Capital Park and Planning Commission.

105 *Council:* The Montgomery County Council sitting as the District Council.

106 *County Executive:* The Montgomery County Executive.

107 D.

108 *Department of Permitting Services:* The Montgomery County Department of  
109 Permitting Services.

110 Department of Transportation: The Montgomery County Department of  
111 Transportation.

112 Development: The act of building structures and installing site improvements, both  
113 public and private, or the resulting structures and improvements.

114 Development Review Committee: A review committee to whom a plan is referred  
115 under the requirements of this Chapter. The Committee consists of Planning  
116 Department Staff and staff of any County, State, and Federal agency; municipality;  
117 and utility company and meets with applicants to facilitate review of the plan.

118 Developer: see "Applicant".

119 Development Rights: The potential for the improvement of a tract of land based on  
120 its zoning classification, measured in dwelling units or floor area.

121 Director: The Director of the Montgomery County Planning Department or such  
122 Director's designee.

123 District or Regional District: The Maryland-Washington Regional District,  
124 established by the Land Use Article of the Annotated Code of Maryland.

125 E.

126 Easement: A grant or reservation by the owner of land for the use of all or a  
127 portion of the land to others, including the public, for a specific purpose or  
128 purposes. The easement must be included in the conveyance of the encumbered  
129 land. For platting under this Chapter, an easement area is included within the  
130 dimensions and areas of the lots through which the easement may run, and is not  
131 separated from the lot as in the case of a dedicated right-of-way.

132 Easement, Slope: An easement to permit the creation and maintenance of slopes  
133 necessary to stabilize construction or to stabilize lands adjacent to construction.

134 Enforcement Agent: The Director, or the Director's designee responsible for  
135 determining compliance with a Planning Board Action.

136 Engineer: A professional engineer registered in Maryland.

137 Environmentally Sensitive Area: In this Chapter, environmentally sensitive areas  
138 are limited to: (a) slopes equal to or exceeding 25 percent, wetlands, streams, and  
139 associated buffers as defined in the latest version of the “Guidelines for  
140 Environmental Management of Development in Montgomery County”; and (b)  
141 critical habitats for threatened or endangered wildlife or plant species as defined in  
142 the Code of Maryland Regulations (COMAR) 08.03.08, or for species designated  
143 by the Maryland Wildlife and Heritage Service Natural Heritage Program,  
144 Department of Natural Resources as rare, watchlist, or in need of conservation.

145 F.

146 Floodplain: as defined in Chapter 19.

147 Floodplain, 100-year: as defined in Chapter 19.

148 G.

149 H.

150 I.

151 Improvements: Required public or private infrastructure needed to support the  
152 development, including the following: roads; alleys; grading; road pavement; curbs  
153 and gutters; sidewalks; pedestrian ways or paths; bicycle infrastructure, including  
154 bikeshare facilities; water mains; sanitary sewer lines; water supply and sewage  
155 disposal; storm drain facilities; curb returns; sidewalk and driveway entrances in  
156 right-of-way; guard rails; retaining walls; sodding; planting; street trees;  
157 monuments; street lights; and stormwater management.

158 Improvement, Public: Any improvements located on land dedicated to the public  
159 or within a dedicated right-of-way or public improvement easement.

160 J.

161 K.

162 L.

163 Licensed Land Surveyor: A land surveyor who is licensed in the State to “practice  
164 land surveying” as [[such terms are]] defined in the Maryland Business

165 Occupations and Professions Code Ann. Section 15-101 (1995 Repl. Vol.), as  
166 amended.

167 Limit of Disturbance Line: A line designating an area beyond which land  
168 disturbance as defined in Chapter 19 is prohibited.

169 Lot: A discrete area of land that is described by a plat recorded in the land records  
170 for which the [[County]] Department of Permitting Services may issue a building  
171 permit.

172 [[Lot, Ownership: An area of land shown on a subdivision record plat created only  
173 for the convenience of the owner under Section 7.1.D of this Chapter that reflects a  
174 deed, mortgage, or lease line but does not subdivide the underlying lot.]]

175 M.

176 Maryland Coordinate System: The coordinate system defined in the Annotated  
177 Code of Maryland, Real Prop. §§14-401 through 14-407.

178 Maryland-Washington Regional District in Montgomery County: An area defined  
179 by the Land Use Article of the Annotated Code of Maryland as the entire County;  
180 however, subdivision, planning, and zoning matters within the jurisdictional  
181 boundaries of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville,  
182 Gaithersburg, and Washington Grove are governed only by each municipality's  
183 ordinance.

184 Master Plan: A plan of any portion of the General Plan that may consist of maps,  
185 data, and other descriptive matter that guides the physical development of the  
186 district or any portion of the district, including any amendments, extensions, or  
187 additions by the Commission, indicating the general locations for major roads,  
188 parks or other public spaces, public building sites, routes for public utilities, zones,  
189 or other similar information. Master plan includes a sector plan and any other type  
190 of master plan prepared by the Board and approved by the District Council. See  
191 Land Use Article of the Annotated Code of Maryland.

192 Mid-Block Right-of-Way: A [[dedicated or otherwise publicly accessible]]  
193 pedestrian or bike right-of-way within a block, which may include utilities where  
194 necessary, and from which motor vehicles are typically excluded.

195 Minor Subdivision: Creation of lots through the division, resubdivision, or  
196 assemblage of a lot, tract, or parcel of land, including minor adjustments to  
197 existing lot lines, that does not require the approval of a preliminary plan of  
198 subdivision. For the purpose of applying the State Growth Tier rules, a minor  
199 subdivision is separately defined in Section 4.3.F.3.a.i.

200 N.

201 Notice of Hearing: An administrative [[notice]] document issued by the Director  
202 that [[notifies]] informs an alleged violator where and when an enforcement  
203 hearing will be held by the Board or the Board's designee to address an alleged  
204 violation.

205 Notice of Violation: A [[notice]] document issued by an enforcement agent that  
206 [[notifies]] informs a recipient of a violation and specifies the remedial action that  
207 the recipient must take to avoid further enforcement action.

208 O.

209 Outlot: An area of land shown on a record plat [[that must not be occupied]] on  
210 which the construction of [[by]] a building or other structure requiring a building  
211 permit is prohibited.

212 Owner: A person or other legal entity holding a legal title in the land, not including  
213 a mortgagee, lienor, lessee, or contract purchaser.

214 Ownership Plat: A plat approved by the Board and recorded in the land records for  
215 the convenience of the property owner that designates land as separate units for  
216 purposes of ownership identification only.

217 Ownership unit: An area of land shown on a record plat created only for the  
218 convenience of the owner under Section 7.1.D of this Chapter that reflects a deed,  
219 mortgage, or lease line but does not subdivide the underlying lot.

220 P.

221 Parcel, Unplatted: A contiguous area of land described only in a deed recorded in  
222 the land records and not included on a record plat.

223 Person: An individual, partnership, corporation, organization, or other legal entity  
224 [[, or combination thereof]] that owns property or otherwise has an interest in a  
225 property.

226 Place of Worship: A meeting area for religious practices, including a church, a  
227 synagogue, a mosque, a convent, a temple, or a monastery.

228 Planning Board: see “Board”.

229 Planning Board Action: A final decision on a preliminary plan, site plan, project  
230 plan, sketch plan, water quality plan, or other plan, including all associated terms,  
231 conditions, requirements, and other obligations or limits, made by the Board under  
232 State law and Chapters 50 and 59, including any regulations issued under State or  
233 County law. For the purposes of an enforcement action, a Planning Board Action  
234 [[does not include]] excludes a decision made by the Board under Chapter 22A.

235 Plat: A drawing depicting some or all of an approved subdivision, prepared and  
236 submitted under this Chapter, and intended for recording in the land records after  
237 approval by the Board. A plat may consist of one or more sequentially numbered  
238 sheets. See also “Record Plat”.

239 Preliminary Plan: A [[plan]] drawing for a proposed subdivision prepared and  
240 submitted for Board approval before the preparation of a plat.

241 Pre-Preliminary Plan: A drawing for a proposed subdivision prepared and  
242 submitted for advice before the submission of a Preliminary Plan.

243 Q.

244 R.

245 Receiving Area: Land designated on the zoning map as qualified for more  
246 development than its base density through the transfer of development rights.

247 Record Plat: A plat of subdivision recorded in the land records under the  
248 requirements of this Chapter.

249 Resubdivision: A change to any lot line created by a previously recorded  
250 [[subdivision]] record plat. Resubdivision includes the assembly of recorded lots or  
251 parts of previously recorded lots. A resubdivision is a subdivision.

252 Right-of-Way: Land intended for the passage of people, vehicles, or utilities, as  
253 shown on a record plat. [[The maker of the plat must dedicate on the plat any  
254 right-of-way involving maintenance by a public agency to public use.]] Any right-  
255 of-way for a public road must be dedicated to public use by the maker of the plat.  
256 The land area of a public right-of-way may be donated in fee to the County. The  
257 parcel or area delineated on a plat for a private road is the private road right-of-  
258 way.

259 Road: Any street, highway, avenue, lane, alley, or viaduct, or any segment of any  
260 of them. Roads must be created by a subdivision plan under this Chapter and be  
261 shown on a record plat[[.]] or [[otherwise be]] deemed a road [[by]] under Chapter  
262 49.

263 Road, Centerline of: A line established as a centerline of a road right-of-way by  
264 any State, County, or other official agency or governing body with jurisdiction and  
265 shown on an officially adopted plan or recorded plat. In the absence of an official  
266 centerline, the Board must establish the centerline with consultation from the  
267 applicable agency with jurisdiction over the road.

268 Road Design and Construction Code: Article 3 of Chapter 49 and any regulation  
269 [[which]] that implements and amends that Article.

270 S.

271 State: The State of Maryland.

272 Stop Work Order: An administrative order issued by an enforcement agent that  
273 requires a person to discontinue any further development, construction, or other  
274 land disturbance activity authorized by a Planning Board Action until a violation  
275 has been corrected.

276 Subdivider: see “Applicant”.

277 Subdivision (v.): The division or assemblage of a lot, tract, or parcel of land into  
278 one or more lots or parcels or other divisions for the purpose, whether immediate  
279 or future, of sale or development. The definition of subdivision does not include a  
280 bona fide division of exclusively agricultural land not for development purposes  
281 [[or the creation of an ownership lot]]. A resubdivision is a subdivision.

282 Subdivision (n.): The land or area subdivided.

283 Subdivision Regulations: Chapter 50 of the Montgomery County Code, also  
284 referred to as this Chapter.

285 Subdivision Staging Policy: The resolution or guidelines adopted by the District  
286 Council to determine the adequacy of public facilities and services.

287 T.

288 Tract: A contiguous area of land, including all proposed and existing rights-of-  
289 way, lots, parcels, and other land dedicated or donated in fee by the owner or a  
290 predecessor in title. A tract does not include land conveyed to a government for  
291 more than nominal consideration.

292 Turnaround: The termination of a road in the approximate shape of a “T”, built to  
293 allow vehicles to reverse direction using a 3-point turn. A temporary turnaround  
294 may become the permanent terminus of a public street when it is so approved by  
295 the Director of the Department of Transportation.

296 U.

297 V.

298 W.

299 Water Quality Plan: A plan, including supporting documents, required as part of a  
300 water quality review under Chapter 19 for certain projects located in a special  
301 protection area.

302 WMATA: The Washington Metropolitan Area Transit Authority.

303 WSSC: The Washington Suburban Sanitary Commission.

304 X.

305 Y.

306 Z.

307 **Division 50.3. General Requirements**

308 **Section 3.1. Applicability of the Chapter**

309 This Chapter applies to any subdivision of land within Montgomery County  
310 located within the Maryland-Washington Regional District, except for[[:

311 A. Any municipal corporation listed in Section 20-701 of the Land Use Article  
312 in the Maryland Code; and

313 B. A]] a good faith division of exclusively agricultural land that is not made for  
314 development purposes.

315 **Section 3.2. Record Plat Required**

316 A. Any subdivision of land must be included on a plat approved by the Board  
317 and recorded in the land records before transfer of any part of the subdivided  
318 land.

319 B. [[The County Department of Permitting Services may only issue a building  
320 permit for the construction of a building located]] Construction of a new  
321 principal building may only occur on a lot or parcel shown on a plat  
322 recorded in the County Land Records or on a property that is exempt under  
323 Section 3.3.B.

324 **Section 3.3. Exemptions to the Requirements of this Chapter**

325 A. An approved preliminary plan and recording of a plat under this Chapter are  
326 not required for the division or conveyance of unplatted land in the  
327 following instances:

328 1. Court action. Partition of land through action of a court of competent  
329 jurisdiction unless or until development of the land is proposed.

330 2. Utility rights-of-way. Land used as part of an electric transmission line  
331 right-of-way or other public utility right-of-way.

332 3. Advanced dedication or donation of master planned rights-of-way.

333 B. Recordation of a plat before issuance of a building permit is not required for:

334 1. [[Certain uses on agricultural land:]] Agricultural land used for  
335 residential dwellings. An unplatted parcel of agricultural land at least

336 25 acres in size used for a primary dwelling unit if density and  
337 development rights are available.

338 [[a. a dwelling unit on an unplatted parcel of agricultural land at  
339 least 25 acres in size, if density and development rights are  
340 available;

341 b. conditional uses associated with agriculture and approved under  
342 Chapter 59, unless a subdivision is required as a condition of  
343 the approval; and

344 c. any equestrian facility or other agricultural building on land  
345 classified in the Agricultural Reserve zone.]]

346 2. Public transfer. A part of a lot previously shown on a record plat that  
347 was created by transfer of part of the lot for public use by reference to  
348 a recorded instrument, if the outlines and dimensions of such  
349 remainder can be determined by reference to the previously recorded  
350 plat. This provision also applies to any property that qualified for an  
351 exemption under this Section before the transfer.

352 3. Adjoining property. A part of a lot created by deed recorded before  
353 May 19, 1997 between owners of adjoining platted properties for the  
354 purpose of small adjustments in boundaries. This applies only to an  
355 adjustment that was less than either a total of 2,000 square feet or one  
356 percent of the combined area, if additional lots were not created and  
357 the total area of resulting ownership was not reduced below the  
358 minimum size required by this Chapter or by Chapter 59.

359 4. Property for Single-Unit Living:

360 a. [[One detached house on a]] An unplatted parcel [[not  
361 previously included on a record plat,]] or a part of a previously  
362 platted lot, proposed for single-unit living, which has not  
363 changed in size or shape since June 1, 1958, if a description and  
364 location of the property and proposed structure are submitted to  
365 the Planning Department, before issuance of a building permit,  
366 sufficient to:

- 367 i. locate the property on the tax maps of Montgomery  
368 County;
- 369 ii. show that the approval of the building permit application  
370 would not result in obstructing the future opening,  
371 extension, or widening of any necessary road, or  
372 otherwise jeopardize any planned public facility;
- 373 iii. show that the property and use comply with the zoning  
374 ordinance, and show the setbacks and any other  
375 information needed to check compliance with  
376 regulations, including provisions for water and sanitary  
377 service, and establishment of a building restriction line  
378 along any existing or proposed road sufficient to provide  
379 for future expansion or opening of such road to its  
380 ultimate width; and
- 381 iv. show that the approval of the permit would not adversely  
382 affect the General Plan.
- 383 b. [[Reconstruction]] An unplatted parcel or a part of a previously  
384 platted lot used for reconstruction of an existing detached house  
385 under Chapter 59, Section 7.7.1.
- 386 c. An unplatted parcel created by combining the entirety of two or  
387 more contiguous parcels that qualified for an exemption under  
388 Subsection (a).
- 389 [[5. Telecommunications facilities. Telecommunications towers/antennas,  
390 including associated accessory structures.]]
- 391 [[6]]5. *Certain residential property in the City of Takoma Park.*  
392 Property located in the portion of the City of Takoma Park annexed  
393 into Montgomery County on July 1, 1997 that was recorded by a deed  
394 before January 1, 1982 and remains otherwise buildable under the  
395 Prince George's County Zoning and Subdivision Regulations on June  
396 30, 1997, if a description and locational survey drawing of the

397 property and proposed structure are submitted to locate them on the  
398 tax map of Montgomery County.

399 [[7]]6. *Certain commercial properties adjoining State highways. An*  
400 addition to a building on property zoned for commercial uses:

401 a. *adjoining a State highway;*

402 b. *located within a State-approved Community Legacy Plan Area*  
403 *on October 30, 2012;*

404 c. *with less than 10,000 square feet of gross floor area on October*  
405 *30, 2012, where subsequent building permits cumulatively*  
406 *allow increases in total gross floor area by less than 2,000*  
407 *square feet; and*

408 d. *that includes a description and boundary survey drawing of the*  
409 *property and proposed structure at a 1-inch-equals-50-foot scale*  
410 *or another appropriate scale as determined by the Director that*  
411 *demonstrates that the additional floor area will not extend into*  
412 *any adopted master plan road right-of-way.*

413 [[8]]7. *Certain commercial properties adjoining State highways in Rural*  
414 *Village Overlay zones. An addition, reconstruction, or replacement of*  
415 *a building on commercially zoned property:*

416 a. *adjoining a State highway;*

417 b. *located in the Rural Village Overlay zone;*

418 c. *with less than 10,000 square feet of existing gross floor area*  
419 *where later building permits cumulatively allow net increases in*  
420 *total gross floor area of less than 2,000 square feet;*

421 d. *that includes a description and boundary survey drawing of the*  
422 *property and proposed structure on a 1-inch-equals-50-foot*  
423 *scale or another appropriate scale, as determined by the*  
424 *Director, showing that the additional floor area will not extend*  
425 *into any adopted master plan road right-of-way; and*

426 e. that is submitted within one year after demolition or destruction  
427 of the previous building was substantially completed.

428 8. Certain non-residential properties. An unplatted parcel or a part of a  
429 previously platted lot used for reconstruction of a non-residential  
430 structure involuntarily demolished by fire, wind, falling debris, water,  
431 or other force of nature if the floor area, height, and footprint of the  
432 new replacement structure are not increased.

433 **Section 3.4. Approving Authority**

434 The Board administers this Chapter.

435 **Section 3.5. Effect of Chapter on Other Ordinances**

436 This Chapter does not repeal or modify or otherwise affect any other ordinance,  
437 resolution, rule, or regulation of the County; however, wherever this Chapter  
438 imposes more stringent requirements, the provisions of this Chapter must prevail.

439 **Section 3.6. Submission Procedures for Subdivision Plans**

440 A. The Board will consider subdivision of land as follows:

441 1. Except for an administrative or minor subdivision under Divisions  
442 50.6 and 50.7, the subdivider must submit a complete preliminary  
443 plan application form and payment of the required fee.

444 2. The plat of all or part of an approved subdivision plan must be  
445 submitted with required supporting data and documents, a completed  
446 application form, and payment of the required fee.

447 B. Subdivision of part of a tract. The Director may reject a subdivision plan  
448 application for part of a tract if the size and shape of the property as  
449 submitted prevent designing a plan that will meet standards established by  
450 these regulations, and require all or a larger part of the tract to be platted to  
451 meet this Chapter, Chapter 49, or other laws or regulations.

452 C. Properties with a pending water or sewer category change request. The  
453 Director may reject a subdivision plan application for a property undergoing  
454 review by the Council for a water or sewer category change request, and

455 require Council action to approve the request before a preliminary plan  
456 application is accepted.

457 ~~[[C]]~~D. Area within pending zoning map amendments. The Director may reject a  
458 subdivision plan if all or any part of the plan [lies] is located within the  
459 boundaries of a pending amendment to the zoning map. The subdivider may  
460 resubmit the plan immediately after the final disposition of the pending  
461 amendment. This Subsection must not apply if any map amendment is still  
462 pending 6 months after the date of the submission of the plan.

463 ~~[[D]]~~E. Area within pending master plan. The Board may defer action on a  
464 proposed subdivision plan application, if all or any part of the plan is located  
465 in the boundaries of a pending master plan or master plan amendment. For  
466 purposes of this Section, a pending master plan or master plan amendment is  
467 the public hearing draft master plan or master plan amendment.

468 1. The subdivider may resubmit a proposed subdivision plan deferred  
469 under this Section to the Board either:

470 a. after the final disposition by the District Council of the pending  
471 master plan or master plan amendment; or

472 b. no later than 12 months from the date the Board approves the  
473 public hearing draft master plan or master plan amendment,  
474 unless there is a determination by the Board that the subdivision  
475 plan application presents a substantial conflict with the  
476 proposed public hearing draft master plan or master plan  
477 amendment, in which case the Board may defer a subdivision  
478 plan application for a maximum of 18 months from the date the  
479 Board approves the public hearing draft master plan or master  
480 plan amendment, but in no event beyond the period in  
481 Subsection (a).

482 **Article II. Subdivision Plans**

483 **Division 50.4. Preliminary Plan**

484 Except for an administrative or minor subdivision submitted under Divisions 50.6  
485 and 50.7, the subdivider must submit a proposed subdivision to the Board for  
486 approval in the form of a preliminary plan before the submission of a plat. The  
487 plan must show graphically, and supporting documents must demonstrate, the data  
488 needed for the Board to make the findings required by this Article.

489 **Section 4.1. Filing and Specifications**

490 **A. Application and fee.**

491 1. The subdivider must file the preliminary plan with the Board, together  
492 with the completed application form, supporting information, and  
493 payment of the required fee.

494 2. The subdivider must own the property or be authorized by the owner  
495 to file the application.

496 3. If property is owned or controlled by the State, Montgomery County,  
497 or another political subdivision, government entity or agency, or  
498 WMATA, the subdivider must obtain authorization from the  
499 government entity, agency or WMATA to include the property as part  
500 of the subdivision.

501 **B. The drawing.** The subdivider must submit a preliminary plan drawing in a  
502 form required by regulations of the Board. Details and information must  
503 include:

504 1. scaled drawing of [[at least]] a maximum of 100 feet to the inch, or as  
505 specified by the Director;

506 2. title block information;

507 3. certificate of [[registered professional]] an engineer [[and]] or licensed  
508 land surveyor to affirm the accuracy of boundary lines, topographic  
509 data, and other engineering or survey data, and to certify that the  
510 subdivision plans and supporting documents were prepared in a  
511 manner that satisfies all submission requirements and applicable  
512 agency standards, policies, and procedures;

- 513           4.    locations and names of abutting and confronting subdivisions with lot,  
514                   block, and record plat number of subdivided land, and deed references  
515                   for unplatted land;
- 516           5.    existing scenic easements, scenic vistas designated by the Rustic  
517                   Roads Plan, or designated historic resources;
- 518           6.    vicinity location map; and
- 519           7.    graphic representation of the proposed subdivision, including:
- 520                   a.   bearings referenced to the Maryland Coordinate System, except  
521                           that an application filed to correct an approved preliminary plan  
522                           may be referenced to the plat meridian used on the original  
523                           approved preliminary plan or the record plat;
- 524                   b.   lot and block layout;
- 525                   c.   all roads labeled as public or private with construction details.  
526                           The subdivider must show the applicable Chapter 49 design  
527                           standards or typical sections for the proposed roads and must  
528                           list any proposed modifications;
- 529                   d.   location of existing and proposed utilities;
- 530                   e.   existing topography with contour intervals of 5 feet or less;
- 531                   f.   location and width of existing and proposed pedestrian and  
532                           bicycle facilities, including sidewalks, shared-use paths and on-  
533                           road bicycle lanes and connections to existing off-site facilities;
- 534                   g.   sites for public uses and open spaces;
- 535                   h.   location, type, and width of all existing and proposed rights-of-  
536                           way and easements, including roads, slopes, paths, utilities, on-  
537                           and off-site storm drainage, and other improvements;
- 538                   i.   the proposed use of all lots on the preliminary plan and the  
539                           scaled dimensions and approximate area of each use;

- 540           j.    lines showing the limits of each zone, if the property is located  
541                    in more than one zone; and
- 542           k.    all existing topography, structures, and paving [[within 100 feet  
543                    of]] on adjoining properties within 100 feet.

544    C.    Supporting information.

- 545           1.    An approved Natural Resources Inventory/Forest Stand Delineation.
- 546           2.    A preliminary forest conservation plan or forest conservation  
547                    exemption.
- 548           3.    Verification from the County and other applicable agencies showing  
549                    payment of any required fees in connection with the County’s review  
550                    process.
- 551           4.    Concept road grade and profile. [[A]] For a public road, an  
552                    [[registered]] engineer or [[registered professional]] a licensed land  
553                    surveyor must prepare conceptual road grade and profile plans  
554                    [[according to]] under the design criteria of Chapter 49 and indicate  
555                    the percentage of tangent grades, lengths of crest and sag, vertical  
556                    curves and elevations, and elevations of all intersecting roads. The  
557                    plan must indicate the direction of water flow. Where the topography  
558                    makes the determination of the adequacy of the road grades difficult,  
559                    the Director may require additional supporting information.
- 560           5.    Storm drainage capacity and impact analysis. The concept road grade  
561                    plan must be supported by a preliminary storm drain study prepared  
562                    under the [[County’s storm drain specifications]] drainage design  
563                    criteria of the transportation or permitting agency with jurisdiction  
564                    over the road.
- 565           6.    Sight distance evaluation for all proposed driveways and proposed  
566                    road intersections prepared under the criteria of the applicable State or  
567                    County transportation agency.
- 568           7.    Hydraulic Planning Analysis. For lots located in areas where the  
569                    subdivider proposes connection to public water and sewer facilities,

570 the subdivider must submit verification from WSSC that the  
571 subdivider has applied for a Hydraulic Planning Analysis.

572 [[7]]8. *Wells and septic systems.* For lots located in areas where the  
573 subdivider proposes the installation of individual wells and septic  
574 systems, the preliminary plan must also show:

575 a. the proposed locations of water wells for each lot and existing  
576 wells on the property and within 100 feet of the property;

577 b. a circular area with a radius of 100 feet around each well to  
578 denote clear space in which no final sewage system is to be  
579 located;

580 c. the “usable area” for sewage disposal that satisfies the  
581 Executive Regulations for on-site sewage disposal;

582 d. any existing sewage disposal systems located on the property  
583 and within 100 feet of the property;

584 e. wetlands, rock outcrops, and floodplains; and

585 f. a 10-foot zone surrounding the water service line to buildings,  
586 free and clear of any sewer lines, systems, or part thereof.

587 [[8]]9. *Phasing schedule.*

588 a. The preliminary plan approval establishes the plan validity and  
589 adequate public facilities validity periods for the entire project.

590 b. Where the subdivider proposes a phased project that will  
591 cumulatively exceed the minimum validity periods under  
592 Sections 4.2.G.2.a and 4.3.J.5.a, the applicant must submit a  
593 recording and construction phasing schedule as part of the  
594 preliminary plan for approval by the Board. The schedule must  
595 indicate the portions of the preliminary plan for which record  
596 plats and building permits will be obtained during each of the  
597 proposed phases, up to the expiration of the maximum adequate  
598 public facilities validity period under Section 4.3.J.5.a.

599 c. When applicable, the phasing schedule must identify the timing  
600 for the completion of construction and conveyance to unit  
601 owners of such things as common open areas and recreational  
602 facilities. In addition, the phasing schedule must indicate the  
603 timing for the provision of moderately priced dwelling units,  
604 and infrastructure improvements associated with each phase.  
605 The subdivider must design such a phasing schedule to  
606 minimize dependence on features (other than community-wide  
607 facilities) that will be provided in subsequent phases and have  
608 minimal impact during construction on phases already built and  
609 occupied.

610 d. If a phasing plan for a preliminary plan included land or  
611 building space that the County accepted for an arts or  
612 entertainment use under Section 59-C-6.2356 of the zoning  
613 ordinance in effect on October 29, 2014, approval of a site plan  
614 under Section 59-7.3.4 for the phase containing that land or  
615 building space validates all remaining phases of the preliminary  
616 plan and the project plan for the purpose of Section 59-D-2.7(b)  
617 of the zoning ordinance in effect on October 29, 2014.

618 ~~[[9]]~~10. Transfer of development rights.

619 a. A preliminary plan for a property located in a receiving area  
620 that proposes to increase the density of the property by using  
621 transferred development rights must indicate:

622 i. the number of lots permitted for the tract by zoning  
623 without the use of density increases as allowed by  
624 Transferable Development Rights (TDR) or the  
625 Moderately Priced Dwelling Unit (MPDU) programs;

626 ii. the number of development rights to be conveyed to the  
627 receiving property;

628 iii. the number of Moderately Priced Dwelling Units to be  
629 provided as required by Chapter 25A;

- 630                   iv.    the total density, in dwelling units, of the proposed  
631   subdivision; and
- 632                   v.    the density recommended by the adopted master plan.
- 633                   b.    A preliminary plan that uses transferable development rights in  
634   the Rural Residential and Residential zones must include at  
635   least two-thirds of the number of development rights permitted  
636   to be transferred to the property under the appropriate master  
637   plan. However, the Board may reduce the two-thirds  
638   requirement if it finds the reduction is more appropriate for  
639   environmental or compatibility reasons.

640                   [[10]]11.   Draft Traffic Mitigation Agreement. A preliminary plan  
641   application for property located in a Transportation Management  
642   District (TMD), designated under Chapter 42A, Article II, must  
643   contain a draft Traffic Mitigation Agreement (TMAG) prepared by the  
644   applicant that meets the requirements of that Article.

645                   12.   Title Search. A title abstract for the property identifying any  
646   easements or other encumbrances on the land being subdivided.

647    D.   Application processing.

648                   1.   The applicant must submit an initial application to the Director. The  
649   Director must review the application for completeness within 10 days  
650   after receipt. An application is incomplete if any required element is  
651   missing or is facially defective, e.g., a drawing that is not to scale. An  
652   application filed without all required fees is also incomplete. The  
653   assessment of completeness must not address the merits of the  
654   application.

655                   2.   The applicant must submit any required revisions to the Director. The  
656   Director must review the revised application for completeness within  
657   10 days after receipt.

658                   3.   After the Director verifies that the application is complete, or if the  
659   review is not completed within 10 days after receipt, the Director will

660 accept the application and establish a hearing date under Section  
661 4.1.E.

662 4. Public notice is required [[per]] to satisfy a regulation approved under  
663 Section 10.1.

664 E. Hearing date. The Board must schedule a public hearing to begin within 120  
665 days after the date [[the Director accepts an application]] of the scheduled  
666 Development Review Committee meeting on the application. The Director  
667 may postpone the public hearing by up to 30 days once without Board  
668 approval. The Director or applicant may request one or more extensions  
669 beyond the original 30 days with Board approval. The Board must notice the  
670 public hearing and indicate the new hearing date on the Board's agenda. An  
671 application that was filed before {effective date of legislation} is not subject  
672 to this subsection.

#### 673 **Section 4.2. Approval Procedure**

674 A. Referral of plan. After accepting an application, the Director must send a  
675 copy to the Development Review Committee and other reviewing bodies,  
676 requesting each agency to submit a recommendation concerning the plan.  
677 The Director must send copies, as needed, to:

678 1. WSSC, for water and sewer service;

679 2. the [[County]] Department of Transportation, for roads, streets,  
680 intersection locations, site access, sight distances, traffic calming,  
681 paths, pedestrian and bicycle facilities (including bike share), parking,  
682 transit facilities, transportation demand management elements, and  
683 storm drainage within County-maintained rights-of-way and  
684 easements;

685 3. the [[County]] Department of Permitting Services, for stormwater  
686 management, floodplain delineation, sanitation, wells, and septic  
687 systems;

688 4. the Montgomery County Department of Environmental Protection, for  
689 water and sewer adequacy and tree variances;

- 690        5.    Montgomery County Fire and Rescue Service, for requirements for  
691        adequate fire protection and access;
- 692        6.    the State Highway Administration, for right-of-way requirements and  
693        access on state roads;
- 694        7.    any appropriate agency of the federal government;
- 695        8.    any municipality that has filed a request with the Board for an  
696        opportunity to review subdivision or resubdivision plans for property  
697        located in that municipality;
- 698        9.    Montgomery County Public Schools, for school site planning;
- 699        10.  any other Montgomery County Executive agency, for the adequacy of  
700        public facilities and services and any proposed public use; and
- 701        11.  local utility providers.

702    B.    *Review and recommendation.*

703        1.    *Timing of review.*

- 704        a.    ~~[[Reviewing]] The Director must allow reviewing State and~~  
705        County agencies and utilities ~~[[must get]] a minimum of 14~~  
706        days to review plans ~~[[and]]~~. Those agencies and utilities must  
707        submit initial comments to the Director before the Development  
708        Review Committee meeting when one is scheduled.
- 709        b.    The applicant must submit revised drawings at least 65 days  
710        before the date of the hearing to address all comments received.  
711        The Director may extend the deadline if the applicant submits a  
712        written request within 15 days after the revised drawings were  
713        due. If no written request is received or if the requested  
714        extension is not granted, the application is deemed withdrawn.
- 715        c.    State and County agencies and utilities must each submit their  
716        final recommendations on the application at least 45 days  
717        before the date of the Board hearing or must request an  
718        extension.

- 719           2.   Approvals from public agencies. The following agency approvals are  
720           [[needed]] required before the Board approves the preliminary plan:
- 721           a.   Design of County-maintained roads. The [[County]]  
722           Department of Transportation must approve in preliminary  
723           form the typical section, concept road profile, intersection and  
724           site access locations, sight distances, utility location, and storm  
725           drain adequacy for improvements along County-maintained  
726           roads and paths within its jurisdiction;
- 727           b.   Wells and septic systems. The [[County]] Department of  
728           Permitting Services must approve lots with individual wells or  
729           septic systems, the well, and septic plan. Proposed wells and  
730           septic systems within existing rights-of-way or easements are  
731           prohibited;
- 732           c.   Stormwater management. The [[County]] Department of  
733           Permitting Services must approve a stormwater management  
734           concept and floodplain delineation, if required under Chapter  
735           19;
- 736           d.   Water Quality Plan. If a water quality plan is required under  
737           Chapter 19, the Board must not approve a preliminary plan or  
738           any extension until all requirements of Chapter 19 for plan  
739           approval are satisfied. The Board must make the compliance  
740           with a required water quality plan, including any plan reviewed  
741           on a preliminary or final basis, a condition of any approved  
742           preliminary plan; and
- 743           e.   Water and sewer service. If water and sewer are proposed to  
744           serve the property, the Board may approve a preliminary plan  
745           only if WSSC [[agrees with]] has reviewed the proposed water  
746           and sewer service layout.
- 747           3.   Director. The Director must publish a report and recommendation at  
748           least 10 days before the Board hearing.

749   C.   Planning Board Action.

- 750 1. The Director must present every preliminary plan to the Board for its  
751 review and action. The Board must take one of the following actions  
752 or defer action to obtain more information:
- 753 a. approve, if the plan conforms to the purposes and other  
754 requirements of this Chapter;
- 755 b. approve, with any conditions or modifications necessary to  
756 bring the proposed development into compliance with all  
757 applicable requirements; or
- 758 c. deny, if the plan is contrary to the purposes and other  
759 requirements of this Chapter.
- 760 2. All necessary improvements to support the development must be  
761 completed or assured, as specified in Section 10.2.
- 762 3. Where a site plan is required, the approval of the preliminary plan  
763 must not allow clearing or grading to occur before approval of the site  
764 plan, unless otherwise specified by the Board.
- 765 4. The Board must approve a resolution containing findings supporting  
766 its decision. Following approval of a preliminary plan by the Board,  
767 [[no agency may require a]] any substantial change in the plan  
768 [[unless]] required by another agency must be allowed by the Board's  
769 conditions of approval or a plan amendment under Section 4.2.F.
- 770 D. Required Findings. To approve a preliminary plan, the Board must find that:
- 771 1. [[the preliminary plan substantially conforms to the master plan;]] the  
772 layout of the subdivision, including size, width, shape, orientation and  
773 density of lots, and location and design of roads is appropriate for the  
774 subdivision given its location and the type of development or use  
775 contemplated and the applicable requirements of Chapter 59;
- 776 2. [[public facilities will be adequate to support and service the area of  
777 the subdivision]] the preliminary plan substantially conforms to the  
778 master plan;

- 779 3. [[the layout of the subdivision, including size, width, shape,  
780 orientation and density of lots, and location and design of roads are  
781 appropriate for the subdivision given its location and the type of  
782 development or use contemplated, considering the recommendations  
783 included in the master plan and the applicable requirements of  
784 Chapter 59;]] public facilities will be adequate to support and service  
785 the area of the subdivision;
- 786 4. all Forest Conservation Law, Chapter 22A requirements are satisfied;
- 787 5. all stormwater management, water quality plan, and floodplain  
788 requirements of Chapter 19 are satisfied; and
- 789 6. any other applicable provision specific to the property and necessary  
790 for approval of the subdivision is satisfied.

791 E. Plan Certification. Every preliminary plan approved by the Board must be  
792 certified by the Director to confirm that the plan reflects the Board's  
793 approval. Any modification of the plan conditioned by the Board's approval  
794 must be included in the plan before receiving the approval stamp. The  
795 approved plan must be filed in the records of the Board.

796 F. Amendments.

797 1. A major amendment to an approved preliminary plan must follow the  
798 same procedures, meet the same criteria, and satisfy the same  
799 requirements as the original preliminary plan.

800 a. A major amendment includes any requests to change density; or  
801 make major changes to lot configuration or location, or right-  
802 of-way width or alignment; or make a change to any condition  
803 of approval, except a change to validity period phasing as  
804 permitted in Section 4.2.F.2.

805 2. A minor amendment to an approved preliminary plan must follow the  
806 same procedures, meet the same criteria, and satisfy the same  
807 requirements as the original preliminary plan, except as modified  
808 under Section 4.2.F.2.b.

809           a.    A minor amendment to an approved preliminary plan includes  
810                    any change that does not change density; make major changes  
811                    to lot configuration or location, or right-of-way width or  
812                    alignment; or alter the intent, objectives, or requirements of the  
813                    Board in approving the preliminary plan.

814           b.    The Board may approve a minor preliminary plan amendment  
815                    without a public hearing if the Director publishes a report and  
816                    recommendation on the amendment a minimum of 10 days  
817                    before the Board meeting. The Director may also approve a  
818                    minor amendment to change validity period phasing as  
819                    permitted in Section 4.2.H.1.b.

820    G.    Plan Validity.

821           1.    Initiation date. The plan validity period for preliminary plans starts on  
822                    the later of:

823                   a.    30 days from the date of mailing indicated on the written  
824                            resolution; or

825                   b.    if an administrative appeal is timely noted by any party  
826                            authorized to file an appeal, the date upon which the court  
827                            having final jurisdiction acts, including the running of any  
828                            further applicable appeal periods.

829           2.    Duration.

830                   a.    Single-phase project.

831                            i.    A preliminary plan approved after March 31, 2009 and  
832                                    before April 1, 2017 remains valid for 60 months after its  
833                                    initiation date.

834                            ii.   A preliminary plan approved after March 31, 2017  
835                                    remains valid for 36 months after its initiation date.

836                   b.    Multi-phase project.

- 837 i. An approved preliminary plan for a multi-phase project  
838 remains valid for the period of time allowed in the  
839 phasing schedule approved by the Board.
- 840 ii. The applicant must propose a phasing schedule and the  
841 duration of the validity period for each phase as part of  
842 an application for preliminary plan approval or  
843 amendment. The Board must assign each phase a validity  
844 period after considering the size, type, and location of the  
845 project.
- 846 iii. The time allocated to any phase must be 60 months or  
847 less after the initiation date for that particular phase for  
848 any preliminary plan approved after March 31, 2009, but  
849 before April 1, 2017, and 36 months after the initiation  
850 date for that particular phase for any preliminary plan  
851 approved after March 31, 2017.
- 852 iv. The cumulative validity period of all phases must be  
853 shorter than or equal to the APFO validity period which  
854 begins on the initiation date of the first preliminary plan  
855 approval, including any extension granted under Section  
856 4.3.J.7.
- 857 v. If the recordation of an approved preliminary plan occurs  
858 within 5 years of approval for a multi-phase project that  
859 includes land or building space to be transferred to the  
860 County for an arts or entertainment use under Section 59-  
861 C-6.2356 of the zoning ordinance in effect on October  
862 29, 2014, all phases of the preliminary plan are validated.  
863 After approval, an amendment or modification to the  
864 phasing plan or the preliminary plan will not affect the  
865 validations if the requirements of this Subsection have  
866 otherwise been met.
- 867 3. Validation. A preliminary plan or phase of a preliminary plan is  
868 validated when the applicant has secured all government approvals

869 necessary to record a plat, and a plat for all property shown on the  
870 plan or in that phase has been recorded in the County Land Records.

871 4. Effect of a preliminary plan amendment on validity period. For any  
872 action taken by the Board to amend a previously approved preliminary  
873 plan, the Board will determine, on a case-by-case basis, whether it  
874 should extend the validity period and, if so, for what duration. In  
875 making the determination, the Board must consider the nature and  
876 scope of the requested amendment.

877 H. Extension of plan validity period.

878 1. Extension request.

879 a. Only the Board is authorized to extend the validity period. The  
880 [[Board]] applicant must [[receive]] submit a request to extend  
881 the validity period of an approved preliminary plan in writing  
882 before the previously established validity period expires. [[Only  
883 the Board is authorized to extend the validity period.]]

884 b. The Director may approve a request to amend the validity  
885 period phasing schedule of an approved preliminary plan if the  
886 length of the total validity period of the preliminary plan is not  
887 extended. The [[Director]] applicant must [[receive]] submit the  
888 request in writing before the previously established validity  
889 period of the phase expires.

890 c. The written request must detail all reasons to support the  
891 extension request and include the anticipated date by which the  
892 plan will be validated. The applicant must certify that the  
893 requested extension is the minimum additional time required to  
894 record all plats for the preliminary plan.

895 2. Effect of [[timing]] failure to submit a timely extension request.

896 a. The failure to submit a written extension request in a timely  
897 fashion voids all non-validated portions of the preliminary plan  
898 and, where applicable, an approved site plan.

899           b.    Where a preliminary plan has been allowed to expire due to the  
900           applicant's failure to file a timely request for extension, the  
901           Board may reinstate the preliminary plan and establish a new  
902           validity period if practical difficulty or undue hardship is  
903           demonstrated by the applicant. The Board may require the  
904           applicant to get a new APFO review and approval by the Board  
905           as a prerequisite or condition of its action to extend an expired  
906           plan.

907           3.    Grounds for extension.

908           a.    The Board may only grant a request to extend the validity  
909           period of a preliminary plan if the Board finds that:

910           i.    delays by the government or some other party after the  
911           plan approval have prevented the applicant from meeting  
912           terms or conditions of the plan approval and validating  
913           the plan, provided such delays are not caused by the  
914           applicant; or

915           ii. the occurrence of significant, unusual and unanticipated  
916           events, beyond the applicant's control and not caused by  
917           the applicant, have substantially impaired the applicant's  
918           ability to validate the plan, and exceptional or undue  
919           hardship (as evidenced, in part, by the efforts undertaken  
920           by the applicant to implement the terms and conditions of  
921           the plan approval in order to validate the plan) would  
922           result to the applicant if the plan were not extended.

923           b.    The applicant bears the burden of establishing the grounds in  
924           support of the requested extension.

925           4.    Planning Board considerations for extension.

926           a.    The Board may condition the grant of an extension on a  
927           requirement that the applicant revise the plan to conform with  
928           changes to the requirements of this Chapter since the plan was  
929           approved.

930           b.     The Board may deny the extension request if it finds that the  
931                 project, as approved and conditioned, is no longer viable. The  
932                 Board must consider whether the project is capable of being  
933                 financed, constructed, and marketed within a reasonable time  
934                 frame. The Applicant must demonstrate the project's viability  
935                 upon request by the Board or the Director.

936           5.     Planning Board action.

937           a.     After a duly noticed public hearing [[for which notice was duly  
938                 given]], the Board must determine whether it should grant a  
939                 request for an extension. The requirements for noticing and  
940                 conducting a public hearing must follow the requirements for a  
941                 preliminary plan.

942           b.     If voting to approve an extension, the Board must only grant the  
943                 minimum time it deems necessary for the applicant to validate  
944                 the plan.

945           c.     The Board may only grant an extension to a preliminary plan  
946                 within the plan's APFO validity period, unless a further  
947                 extension is allowed by law.

948           d.     An applicant may request, and the Board may approve, more  
949                 than one extension.

950           e.     Once a phasing schedule is approved by the Board as part of a  
951                 preliminary plan approval, the Board must treat any revision or  
952                 alteration to the schedule other than an amendment approved  
953                 under Section 4.3.J.7 as a minor amendment to the preliminary  
954                 plan. Board approval of a revised phasing schedule is required  
955                 to extend the total length of the validity period.

956     I.     Effect of failure to timely validate plan or secure an extension.

957           1.     If a preliminary plan is not timely validated in whole or in part before  
958                 the expiration of the validity period, any remaining portion of the plan  
959                 [[expires]] is void. For multi-phased plans, the failure on the part of an

960 applicant to timely validate a phase, in whole or in part, voids the  
961 balance of the preliminary plan approval for that phase and all  
962 subsequent non-validated phases.

963 2. In those instances where an applicant has timely validated only a  
964 portion of a plan and no extension is granted, the applicant seeking to  
965 develop only that portion of the project remains responsible for fully  
966 complying with all of the terms, conditions, and other requirements  
967 associated with the portion of the plan approval that has been  
968 implemented.

969 3. If a preliminary plan or a phase of the plan is not timely validated, any  
970 APFO determination made by the Board associated with the  
971 [[expired]] void portion of the preliminary plan is also [[expires]]  
972 void. In such event, the applicant loses any further rights to claim any  
973 vehicle trips associated with the expired APFO approval. The filing of  
974 a new preliminary plan application does not provide the basis for  
975 reclaiming vehicle trips lost by the termination of the APFO approval.

976 4. A preliminary plan approval conditionally linked to a sketch plan or  
977 project plan approval under Chapter 59 expires if the sketch plan or  
978 project plan expires.

979 J. Revocation of approval.

980 1. The Board may revoke approval of a preliminary plan by resolution at  
981 any time before the Board approves the final plat covering the  
982 proposed preliminary plan.

983 2. To revoke a preliminary plan approval, except in response to a  
984 violation of this Chapter, the Board must find that completing a  
985 portion of the plan has been rendered impractical by reason of an  
986 amendment to the General Plan, or by a conflict with a proposed  
987 public improvement or other conditions or circumstances not  
988 previously considered by the Board that make the plan contrary to  
989 public health, safety, or welfare.

990           3.     The Board must give a subdivider notice and an opportunity to be  
991                 heard by the Board before taking any action to revoke approval of a  
992                 preliminary plan [[by sending]]. Notice to the owner and subdivider  
993                 [[a notice]] must be sent by certified mail at least 30 days before the  
994                 date of the proposed action [[and]] giving the time and place of the  
995                 hearing. The notice must state the reasons for the proposed revocation.

996     **Section 4.3. Technical Review**

997     In making the findings under Section 4.2.D, the Board must [[review]] consider the  
998     following [[technical]] aspects of the application.

999     A.     Relation to master plan.

1000           1.     [[In determining whether to approve a preliminary plan, the Board  
1001                 must consider the applicable master plan or Urban Renewal Plan.]] A  
1002                 preliminary plan must substantially conform to the applicable master  
1003                 plan or Urban Renewal Plan, including maps and text. However, if a  
1004                 site plan is not required under Chapter 59, Article 59-7.3.4, the Board  
1005                 may find that events have occurred to render the relevant master plan  
1006                 or Urban Renewal Plan recommendation no longer appropriate.

1007           2.     A preliminary plan that requires a site plan approval under Chapter  
1008                 59, Article 59-7.3.4 may exceed any dwelling unit per acre or floor  
1009                 area ratio (FAR) limit recommended in a master plan, as provided in  
1010                 Chapter 59, to permit construction of all MPDUs under Chapter 25A,  
1011                 or workforce housing units required under Chapter 59 or Chapter  
1012                 29A.

1013     B.     Block design.

1014           1:     Residential blocks. The Board must approve the length, width, and  
1015                 shape of any residential block as follows:

1016                 a.     Length. The length of a residential block must be compatible  
1017                         with existing development patterns and the land use goals for  
1018                         the area of the subdivision. The maximum length of a block is  
1019                         1,600 feet.

- 1020            b.    Width. Blocks must be designed with sufficient width to  
1021            provide 2 tiers of lots. The Board may approve exceptions to  
1022            block width design for blocks adjacent to heavy traffic ways,  
1023            railroads, streams, drainage courses, or for land uses where it is  
1024            appropriate to establish blocks with 1 tier of lots.
- 1025            c.    Pedestrian paths. The Board may require paths for pedestrian  
1026            access to schools, playgrounds, parks, and other public areas  
1027            and through long blocks.
- 1028            d.    Multi-unit or apartment blocks. The Board must review and  
1029            approve the design and arrangement of access roads within a  
1030            subdivision for multi-unit or apartment dwellings, together with  
1031            the required parking facilities and pedestrian walks, to  
1032            determine that resulting blocks are a suitable length and width  
1033            for pedestrian and vehicle circulation.
- 1034            2.    Nonresidential blocks. The Board must determine if the blocks  
1035            designed for business or industry are a suitable length and width,  
1036            including adequate provision for pedestrians, parking, deliveries, and  
1037            truck maneuvering.
- 1038    C.    Lot design.
- 1039            1.    General requirements.
- 1040            a.    Lot dimensions. [[The Board must find that lot]] Lot size,  
1041            width, shape, and orientation [[will]] must be appropriate for  
1042            the location of the subdivision and for the type of development  
1043            or use contemplated, considering the recommendations of the  
1044            master plan and the applicable requirements of Chapter 59.
- 1045            b.    Lots to abut on a public or private road. Except as specified  
1046            below, every lot must abut on a public or private road. A public  
1047            road must be dedicated or donated to public use or have  
1048            acquired the status of a public road under Chapter 49. A private  
1049            road must be [[created by]] shown on a record plat [[and be  
1050            made available for public use through an access easement]].

- 1051                    i.     The Board may approve a maximum of 2 lots that do not  
1052                                abut a public or private road if the lots will be served by a  
1053                                private driveway that serves no other lots without  
1054                                frontage.
- 1055                    ii.    The [[Board must find that]] access to lots with no road  
1056                                frontage [[is]] must be adequate to serve the lots for  
1057                                emergency vehicles and for installation of public utilities.  
1058                                In addition, the [[Board must find that the]] lots [[are]]  
1059                                must be accessible for other public services and [[are]]  
1060                                not detrimental to future [[subdivision]] development of  
1061                                adjacent lands.
- 1062                    c.     Side lines. Side lines of interior lots must to the extent possible  
1063                                be aligned perpendicular to the road line or radial to a curved  
1064                                road line.
- 1065                    d.     Through lots. The Board must not approve through lots, except  
1066                                where unusual topography, orientation, or the size of the  
1067                                subdivision permit no other feasible way to subdivide.
- 1068                    e.     Alley or pedestrian paths for residential lots. If a mid-block  
1069                                alley or pedestrian right-of-way is provided in a residential  
1070                                subdivision, the subdivider must increase the lot widths  
1071                                adjoining the alley or right-of-way to provide for a parallel side  
1072                                building restriction line 15 feet from the alley or right-of-way.
- 1073     D.     Public sites and adequate open spaces. A preliminary plan must provide for  
1074                                required public sites and adequate open space areas.
- 1075                    1.     Master planned sites. When a tract being subdivided includes a  
1076                                proposed site for a park, playground, school, or other public use  
1077                                recommended in the applicable master plan, and that use is deemed  
1078                                necessary by the Board and applicable public agency, the preliminary  
1079                                plan must show the site for the use for dedication or acquisition and  
1080                                subsequent record plat. Land that is not dedicated may be acquired by  
1081                                donation, purchase, or condemnation, or reserved under Subsection 5.

1082           2.     Local recreation. The Board must require platting and dedication to  
1083           public use of adequate spaces for recreation wherever it is reasonable  
1084           to do so, considering the recommendations in the applicable master  
1085           plan, the circumstances existing where a subdivision is located, and  
1086           the size and character of the subdivision. The subdivider may be  
1087           required to provide what is determined by the Board to be an area  
1088           relevant to the recreational needs of the present and future inhabitants  
1089           of the subdivision. Whenever the necessary recreational area is larger  
1090           than the subdivider is required to dedicate, the balance of the needed  
1091           area must be reserved for acquisition under Subsection 5.

1092           3.     Area for public roads and associated utilities and storm drainage.

1093           a.     Roads. In its consideration of the approval of a subdivision, the  
1094           Board must require dedication and platting of adequate area to  
1095           provide public roads and other public transportation facilities.  
1096           These must be coordinated with other existing, planned, or  
1097           platted roads, other features in the district, or with any road plan  
1098           adopted or approved as a part of the General Plan.

1099           b.     Rights-of-way and easements other than roads. The Board may  
1100           require dedication to public use of rights-of-way or platting of  
1101           easements necessary for public uses, such as pedestrian paths,  
1102           equestrian trails, [[bicycle infrastructure (including, but not  
1103           limited to, bikeways and bike-share facilities)]] bicycle  
1104           facilities, water and sanitary sewer, and stormwater  
1105           management and storm drainage facilities. The Board must  
1106           approve the extent, location, and width of each pedestrian path,  
1107           equestrian trail, and bikeway right-of-way after considering the  
1108           master plan. The extent and width of water and sanitary sewer  
1109           rights-of-way must be determined by the Washington Suburban  
1110           Sanitary Commission in its jurisdiction. The extent and width  
1111           of drainage rights-of-way must be determined by the [[County]]  
1112           Department of Permitting Services after receipt of drainage  
1113           studies prepared by the applicant's engineer.

1114 4. Areas not suitable for public use.

1115 a. When a preliminary plan includes a proposed dedication of land  
1116 to public use, the Board must determine if the land is suitable  
1117 for the intended public use. In its evaluation, the Board must  
1118 consider, among other relevant factors, any criteria for the  
1119 intended use adopted by the receiving agency and the agency's  
1120 recommendations, the natural features of the site, and the extent  
1121 of site preparation work. Site preparation may include  
1122 excavation of rock, excessive grading, grading of steep slopes,  
1123 remedial environmental measures, and similar work required to  
1124 prepare the site for the public use. In evaluating the natural  
1125 features of a site, the Board may require the applicant to  
1126 perform soil borings or to provide other detailed topographical  
1127 or subsurface information not otherwise submitted under  
1128 Section 4.1.B. The applicant's engineer must certify the  
1129 information provided to the Board. Factors relevant to a  
1130 determination of the magnitude of site preparation work include  
1131 estimated costs, acreage, agency experience with similar sites  
1132 and construction industry practices.

1133 b. Based on the analysis, the Board may refuse to approve the  
1134 dedication and:

1135 i. require the rearrangement of lots in the subdivision to  
1136 provide for a suitable site;

1137 ii. permit the applicant to pay for additional site preparation  
1138 that makes the site suitable for the public use; or

1139 iii. with the concurrence of the receiving agency, permit the  
1140 applicant to provide an alternative location offsite.

1141 5. Reservation.

1142 a. Procedure. When the Board determines that a tract being  
1143 subdivided includes land that is necessary for public use but  
1144 will not immediately be acquired by donation, dedication,

1145 purchase, or condemnation when the plat is recorded, the Board  
1146 must determine the need to reserve the land. The Board may  
1147 require a reservation for a period of time less than 3 years [[or  
1148 less]] for road rights-of-way, public school and building sites,  
1149 parks, playgrounds, recreational areas, or other public purposes.

1150 i. Referral to agency concerned with acquisition. If a  
1151 reservation of land appears to be in the public interest,  
1152 the Board must refer the plan to the public agency  
1153 concerned with acquisition for consideration and report.  
1154 The Board may propose alternate areas for such  
1155 reservation and must allow such public agency 30 days  
1156 for reply. The agency's recommendation, if affirmative,  
1157 must include a map showing the boundaries and area of  
1158 land to be reserved and an estimate of the time required  
1159 to complete the acquisition.

1160 ii. Resolution. The Board must approve a declaration of  
1161 public reservation by resolution, stating the period during  
1162 which the reservation is effective. Notice of the same  
1163 must be carried once each in two newspapers of general  
1164 circulation in the County and a plat must be recorded in  
1165 the land records of the County showing in detail the land  
1166 so reserved. Certified copies of the resolution must be  
1167 sent to the property owner and to the agency concerned  
1168 with acquisition.

1169 iii. Taxes. The Board must advise taxing and assessing  
1170 bodies of all public reservations, and such public  
1171 reservations must be exempt from all State, County, and  
1172 local taxes during the reservation period.

1173 iv. Preservation. During the reservation period, any use of  
1174 the reserved land that involves constructing buildings or  
1175 structures, removing trees, or clearing and grading must  
1176 be approved by the Board. A person must not remove or

1177 destroy trees, topsoil, or cover; grade; or build a storm  
1178 drainage structure that discharges water on the reserved  
1179 land, except according to a storm drainage plan approved  
1180 by the [[County]] Department of Permitting Services or  
1181 the [[County]] Department of Transportation. Nothing in  
1182 this Section relieves the landowner from the  
1183 responsibility to maintain the property according to law  
1184 or prohibits the owner from removing weeds or trash  
1185 from reserved land or from selling the reserved land after  
1186 approval of the Board.

1187 v. Posting. The Board must post properties in reservation  
1188 with an appropriate sign, warning against violation of the  
1189 preservation provisions and the penalties for a violation.

1190 b. Expiration of plan. The expiration or revocation of approval of  
1191 a preliminary plan must not affect a reservation if, before the  
1192 expiration date, a reservation plat has been recorded in the Land  
1193 Records.

1194 E. Roads.

1195 1. Plan requirements.

1196 a. Master plan roads. Preliminary plans must include roads shown  
1197 on any adopted Master Plan of Highways, in satisfaction of the  
1198 Road Design and Construction Code. Where applicable, an  
1199 approved plan must include recommendations of the State  
1200 Highway Administration for construction and access to State  
1201 roads. Where private roads are specifically recommended by a  
1202 master plan, the roads must be provided to the standards for  
1203 private roads under this Section.

1204 b. Continuation of roads. The subdivision must provide for  
1205 continuation of any existing roads (constructed or recorded)  
1206 [[that satisfy]] in satisfaction of the Road Design and

- 1207                    Construction Code, unless otherwise determined by the Board,  
1208                    considering the recommendations of other appropriate agencies.
- 1209                    c.    Future subdivisions. A tract in a preliminary plan application  
1210                    must be divided to not preclude future road openings and  
1211                    further logical subdivision of adjacent land.
- 1212                    d.    Alleys. The Board, in consultation with the appropriate  
1213                    transportation agency, may require alleys where they are  
1214                    necessary to provide access.
- 1215                    e.    Railroad crossings. A preliminary plan involving new or  
1216                    existing roads crossing railroad tracks must provide an adequate  
1217                    right-of-way, including approach right-of-way and slope  
1218                    easements, for construction of an underpass or overpass unless  
1219                    otherwise determined by the Board, considering the  
1220                    recommendations of other appropriate agencies.
- 1221                    f.    Residential roads paralleling railroads. A residential road  
1222                    paralleling a railroad must be located at least 160 feet from the  
1223                    track to provide lots with sufficient depth backing to the  
1224                    railroad right-of-way.
- 1225                    g.    Railroad tracks. Existing railroad tracks must not be included  
1226                    within the rights-of-way of roads, except for crossings or rail  
1227                    transit lines outside the paved traveled portion of the road.
- 1228                    2.    Design standards.
- 1229                    a.    Right-of-way. Area for a road on a subdivision plan must  
1230                    include the full width of all rights-of-way recommended for the  
1231                    applicable road classification in the adopted master plan and in  
1232                    the Road Design and Construction Code.
- 1233                    i.    The Board may approve a narrower than standard road  
1234                    right-of-way if it meets minimum fire access  
1235                    requirements and the Board finds that a narrower right-  
1236                    of-way is environmentally preferable, improves

1237 compatibility with adjoining properties, or allows better  
1238 use of the tract under consideration.

1239 ii. In determining the width of a less than standard right-of-  
1240 way, the Board must consider:

1241 (a) the recommendations of the [[County]]  
1242 Department of Transportation or other applicable  
1243 state or municipality transportation permitting  
1244 agency;

1245 (b) the amount of traffic expected to use the proposed  
1246 roads;

1247 (c) the maximum road right-of-way or improvement  
1248 required for the proposed land use; and

1249 (d) the increased traffic, travel lane, and right-of-way  
1250 requirements that would be created by maximum  
1251 use and development of land using the road.

1252 [[b. Slope easement. When required for construction or road  
1253 maintenance, the subdivision plan must establish an easement  
1254 for a 2:1 slope along both sides of each road right-of-way for  
1255 public use. The easement must be at the front setback line per  
1256 zoning, or as determined by a site-specific slope study in  
1257 coordination with the road grade approved under this Chapter.]]

1258 [[c]]b. *New roads, sidewalks, etc.* The subdivider must design and  
1259 construct the roads, alleys, bicycle facilities, sidewalks, and  
1260 pedestrian ways with drainage, street trees, and other integral  
1261 facilities in each new subdivision [[as required by the Road  
1262 Design and Construction Code or a municipality, whichever  
1263 applies]] as required by the appropriate transportation or  
1264 permitting agency.

1265 [[d. Existing public roads. In a preliminary plan or administrative  
1266 subdivision plan application containing lots fronting on an

1267 existing State, County, or municipally maintained road, the  
1268 subdivider must provide any additional required right-of-way  
1269 dedication and reasonable improvement to the road in front of  
1270 the subdivision, including sidewalks and bicycle facilities, as  
1271 required by the approved Master Plan, Road Design and  
1272 Construction Code or by a municipality, whichever applies.

1273 e. Private roads. Private roads must be built to the applicable  
1274 structural standard, grade, and typical section based on the  
1275 comparable functional classification in Chapter 49. Private  
1276 roads must conform to the horizontal alignment requirements of  
1277 this Chapter. The subdivider must have a registered engineer  
1278 certify to the County Department of Permitting Services that  
1279 each private road has been designed to meet the structural  
1280 standards required by this Section. The subdivider must then  
1281 certify to the County Department of Permitting Services that all  
1282 construction complies with the design.]]

1283 [[f]]c. Mid-block pedestrian right-of-way. The minimum right-of-way  
1284 must be 20 feet for a mid-block pedestrian right-of-way.

1285 [[g]]d. Drainage right-of-way. The minimum for an enclosed  
1286 drainage right-of-way must be 20 feet, unless otherwise  
1287 determined by the [[County]] Department of Permitting  
1288 Services or other applicable public agency.

1289 [[h]]e. Non-through roads. The Board must not approve any road that  
1290 does not connect to another road at its beginning and end,  
1291 unless a determination is made that:

1292 i. a through road is infeasible due to a property's unusual  
1293 shape, size, topography, environmentally sensitive areas,  
1294 or the characteristics of abutting property;

1295 ii. the road provides access to no more than 75 [[lots]]  
1296 dwelling units;

1297                    iii. the road is properly terminated in a cul-de-sac or other  
1298                    turnaround; and

1299                    iv. the road is less than 500 feet in length, measured along  
1300                    its centerline to the nearest through street, unless the  
1301                    Board determines that a longer length is necessary  
1302                    because of the unusual shape, size, topography, or  
1303                    environmentally sensitive areas of the subdivision.

1304                    [[i]]f. *Intersection.*

1305                    i. Roads must be laid out to intersect as nearly as possible  
1306                    at right angles. The Board must not approve a proposed  
1307                    intersection of new roads at an angle of less than 70  
1308                    degrees.

1309                    ii. Proposed road intersections, excluding alleys and  
1310                    driveways, must be spaced as shown in the table below,  
1311                    as measured from the centerline of the intersections[[,  
1312                    except in an Urban Area as defined in Chapter 49]].  
1313                    When the Board finds that a greater or lesser spacing is  
1314                    appropriate, the Board may specify a greater or lesser  
1315                    spacing than otherwise required after considering the  
1316                    recommendation of the [[County Department of  
1317                    Transportation]] transportation agency responsible for  
1318                    maintaining the road.

1319

<u>Road Classification</u>	<u>Locale</u>	<u>Distance Between Intersections (FT)</u>
<u>Tertiary Residential</u>	<u>All</u>	<u>[[200]]150</u>
<u>Secondary Residential</u>	<u>Urban</u>	<u>[[300]]200</u>
	<u>Suburban</u>	<u>200</u>
	<u>Rural</u>	<u>200</u>
<u>Primary and Principal Secondary</u>	<u>Urban</u>	<u>[[400]]300</u>
	<u>Suburban</u>	<u>400</u>
	<u>Rural</u>	<u>400</u>
<u>Business District and Industrial</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>400*</u>
	<u>Rural</u>	<u>400*</u>
<u>Country Road</u>		<u>400</u>
<u>Country Arterial</u>		<u>800</u>
<u>[[Arterial and]] Minor Arterial</u>	<u>Urban</u>	<u>[[500]]300</u>
	<u>Suburban</u>	<u>500</u>
	<u>Rural</u>	<u>800</u>
<u>Arterial</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>600*</u>
	<u>Rural</u>	<u>800*</u>
<u>[[Controlled]] Major Highway[[, Major Highway and Parkway]]</u>	<u>Urban</u>	<u>[[1000]]300*</u>
	<u>Suburban</u>	<u>800*</u>

	<u>Rural</u>	<u>1000*</u>
<u>Controlled Major Highway</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>1000*</u>
	<u>Rural</u>	<u>1000*</u>
<u>Parkway</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>600*</u>
	<u>Rural</u>	<u>800*</u>

1320 \*NOTE: Median breaks on divided roadways must be no closer than 600 feet.

1321 iii. Corner lots at an intersection must be truncated by  
 1322 straight lines joining points 25 feet back from the  
 1323 theoretical property line intersection in each quadrant.  
 1324 When more or less width is needed for traffic safety and  
 1325 operations, the Board may specify a greater or lesser  
 1326 truncation than otherwise required. Any alley intersection  
 1327 or abrupt change in alignment in a block must have the  
 1328 corners truncated sufficiently for safe vehicular turning.

1329 [[j]]g. Horizontal alignment. In all public and private primary,  
 1330 secondary and tertiary residential streets and culs-de-sac, the  
 1331 alignment must be designed so that all deflections in horizontal  
 1332 alignment are accomplished through segments of circular  
 1333 curves properly incorporated into the design. The minimum  
 1334 permitted centerline radii must be:

- 1335 i. Primary roads . . . . . 300 feet
- 1336 ii. Secondary roads . . . . 150 feet
- 1337 iii. Tertiary roads . . . . . 100 feet

1338 The Board must specify greater radii when safety requires. A tangent  
 1339 at least 100 feet long must be used between two reverse curves, except  
 1340 in a secondary or tertiary residential street. The Board may specify a

1341 lesser radii when the Department of Transportation has previously  
1342 issued a design exception for a similar design.

1343 3. *Additional requirements for public roads.*

1344 a. *Slope easement.* When required for construction or road  
1345 maintenance, the subdivision plan must establish an easement  
1346 for a 2:1 slope along both sides of each public road right-of-  
1347 way for public use. If a Public Utility Easement (PUE) is  
1348 required along a road, that PUE is to be graded when the road is  
1349 constructed on a side slope not to exceed 4:1; the 2:1 maximum  
1350 side slope may commence outside the limit of the PUE. The  
1351 Slope Easement must provide adequate room for proper  
1352 transition grading at the toe or top of slope. The easement must  
1353 be at the front setback line per zoning, or as determined by a  
1354 site-specific slope study in coordination with the road grade  
1355 approved under this Chapter. A retaining wall instead of a slope  
1356 easement may be allowed by the reviewing agency.

1357 b. *Existing public roads.* In a preliminary plan or administrative  
1358 subdivision plan application containing lots fronting on an  
1359 existing State, County, or municipally maintained road, the  
1360 subdivider must provide any additional required right-of-way  
1361 dedication and reasonable improvement to the road in front of  
1362 the subdivision, including sidewalks and bicycle facilities, as  
1363 required by Master Plan, the Road Design and Construction  
1364 Code or by a municipality, whichever applies.

1365 c. *Storm drainage.* The subdivider must grade and provide  
1366 drainage structures and storm sewers according to a storm drain  
1367 plan and permit approved by the Department of Transportation  
1368 and Department of Permitting Services or applicable  
1369 municipality in coordination with the construction of public  
1370 roads.

1371

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4. Additional standards for private roads.

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a. Designating Private roads.

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In general, creation of public roads is preferred in all circumstances; a developer must justify the use of a private road based upon the criteria below and the specific compelling circumstances of the property being developed.

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b. Justification for a private road:

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A subdivider who proposes a private road must include a list of proposed design elements that cannot be accommodated using context-sensitive road design standards or modified under a Design Exception. The justification for a private road must not be based solely on the installation of non-standard amenities that could be addressed under a Maintenance and Liability Agreement with the County.

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c. Standards. Private roads must be built to the construction specifications of the corresponding public road concerning paving detail and design data, including surface depth and structural design. The road must be designed in accordance with sound engineering principles for safe use including horizontal and vertical alignments for the intended target speed, adequate typical sections for vehicles, pedestrians, and bicyclists, compliance with the Americans with Disabilities Act, drainage and stormwater management facilities, intersection spacing and driveway locations, parking, lighting, landscaping or street trees, and utilities. The width and cross section of a private road must meet the right-of-way specified in a master plan or be equal to the corresponding public road standard unless modified by the Board. Private roads must conform to the horizontal alignment requirements of this Chapter.

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d. Road Classifications. When the proposed road is not needed to maintain area circulation, provide continuous corridors to serve

1403 the general public and quasi-public needs such as  
1404 communication, utility, and future potential transportation or  
1405 other systemic needs that serve the public on a long-term basis,  
1406 and is not needed to be part of the network modeled for area  
1407 capacity, consideration will be given to making the following  
1408 roads private:

- 1409 i. Only roads classified as either Business District,  
1410 Industrial, Secondary, Tertiary, or Alley may be  
1411 considered by the Board to be private. All other road  
1412 classifications must be public unless specifically  
1413 permitted to be a private road by a master plan.
- 1414 ii. Private roads with improvements above or below the  
1415 pavement are only allowed in projects that require site  
1416 plan review and approval.
- 1417 iii. Private roads should not be permitted if they will create a  
1418 segmented road ownership pattern, unless approved by  
1419 the Planning Board.
- 1420 iv. Private roads must not be permitted if they will  
1421 negatively affect development of other properties.
- 1422 v. A Business District road may be a private road only  
1423 when it is not required to provide an adequate traffic  
1424 level of service. A private Business District street may  
1425 be approved only when the proposed road is not either a  
1426 connector between two higher classification roads or a  
1427 road that is planned to extend beyond the boundary of the  
1428 preliminary plan.
- 1429 vi. An industrial road may a private road only when the road  
1430 is part of roads internal to the industrial site and the road  
1431 is not a connector between higher classified roads.
- 1432 vii. A secondary road may be a private road only when it  
1433 connects to no more than one higher classification road

- 1434 and the road does not need to be extended onto adjacent  
1435 property to facilitate a future subdivision of land.
- 1436 viii. A tertiary road, when a cul-de-sac, must be less than 500  
1437 feet in length.
- 1438 ix. A private alley will not require an access easement if the  
1439 alley only serves one building or if the alley is a  
1440 secondary access to one-family residential dwellings.
- 1441 e. Certification. Before the Board may approve a preliminary  
1442 plan, the subdivider must have an engineer certify that each  
1443 private road has been designed to meet the standards required  
1444 by this Section. The subdivider must then certify to the  
1445 Department of Permitting Services that all construction  
1446 complies with the design before release of the surety for the  
1447 road.
- 1448 ~~[[3]]~~5. Additional roadway provisions.
- 1449 a. Road names. The Board must approve any road name before it  
1450 is used. The Board must not approve any road name that is  
1451 already used, or closely resembles any road name already used,  
1452 anywhere else in the County. If a new road is an extension of or  
1453 in a direct line with an existing road, the Board should continue  
1454 the name of the existing road.
- 1455 b. Off-site sidewalks and bikeways. In approving a preliminary  
1456 plan, the Board may, after considering the recommendation of  
1457 the Department of Transportation or other applicable  
1458 transportation agency, require a developer to provide a  
1459 reasonable amount of off-site sidewalks, bikeways, or  
1460 improvements. Off-site sidewalks, bikeways, or improvements  
1461 may be required to provide necessary connections from the  
1462 proposed development to an existing sidewalk or bikeway, an  
1463 existing or master plan proposed bus or other public transit  
1464 stop, an existing or proposed bikeshare station, or a public

1465 facility. The Board must find that such facilities will be used by  
1466 residents or users of the development or for handicapped  
1467 access. The developer must not be required to obtain any right-  
1468 of-way to build or improve a sidewalk or bikeway unless  
1469 required under another provision of law.

1470 c. *Rustic roads.* In approving a preliminary plan, the Board must  
1471 not require improvements that are contrary to Chapter 49,  
1472 Article 8 or Executive Regulations governing rustic roads. The  
1473 Board may waive any requirement of Sections 4.3.E.2. ~~[[c]]~~ b  
1474 and 4.3.E. ~~[[2.d]]~~ 3.b that is incompatible with the rustic road or  
1475 substitute any alternative requirement that is consistent with the  
1476 goals of the rustic roads law. The Board may only require those  
1477 improvements that retain the significant features of the road  
1478 identified by the Council for preservation. If the Board is  
1479 otherwise directed by this Section to require improvements that  
1480 are contrary to the rustic roads law or Executive Regulations,  
1481 the Board must consider the recommendations of the Rustic  
1482 Roads Advisory Committee and evaluate the feasibility of trip  
1483 reduction and alternative road improvements to the local  
1484 roadway network. If the Board determines that no feasible  
1485 alternative exists, it may require improvements that are  
1486 necessary for traffic safety ~~[[and]]~~ or operational requirements.

1487 d. *Road grade approval.* No final grading, sidewalk or pavement  
1488 construction, or installation of utilities must be permitted in the  
1489 bed of any proposed public or private road in any preliminary  
1490 plan or administrative subdivision plan until the grade has been  
1491 approved under this Chapter.

1492 e. *Pedestrian paths.* When a pedestrian path is included in a  
1493 preliminary plan or administrative subdivision plan, the  
1494 subdivider must grade and construct the path according to the  
1495 plan approved by the Board, ~~[[County]]~~ Department of  
1496 Permitting Services, or applicable municipality.

1497            [[f. Storm drainage. The subdivider must grade and provide  
1498            drainage structures and storm sewers according to a plan  
1499            approved by the County Department of Transportation and  
1500            County Department of Permitting Services or applicable  
1501            municipality in coordination with the construction of new  
1502            roads.]]

1503            [[g]]f. Street lights. The subdivider must provide street lights under  
1504            the standards required by the Road Design and Construction  
1505            Code. The [[County]] Department of Transportation may waive  
1506            any requirement under this Subsection for any new subdivision  
1507            that abuts a rustic road if the requirement is incompatible with  
1508            the rustic road, or may substitute any alternative requirement  
1509            that is consistent with the goals of the rustic roads law.

1510            [[h]]g. Traffic calming. The Board, [[in consultation with]] after  
1511            considering the recommendation of the appropriate  
1512            transportation agency, may require any traffic calming feature  
1513            [[under Section 49-30]] as a condition of subdivision approval.

1514            [[4]]6. Platting roads. [[Area for roads must be shown on a record plat  
1515            to the full width of the required right-of-way. A public road must be  
1516            dedicated to public use. A private road must be platted as a road  
1517            parcel with an access easement for the public and remain open and  
1518            unobstructed for use at all times as part of the project common area.  
1519            Inthe Commercial/Residential, Employment, Industrial, and Planned  
1520            Unit Development zones, a private road may be platted by an  
1521            easement alone delineated within a lot on the plat if the Board finds it  
1522            necessary to permit a structure that would otherwise cross a lot line  
1523            created by a road parcel.]]

1524            The area for roads must be shown on a record plat to the full width of  
1525            the required right-of-way.

1526            a. A public road must be dedicated to public use.

1527            b.    A private road must be platted as a road parcel and remain open  
1528            and unobstructed for use at all times as part of the project's  
1529            common area.

1530            c.    In the Commercial/Residential, Employment, Industrial, and  
1531            Planned Unit Development zones, a private road may  
1532            delineated within a lot on the plat if the Board finds it  
1533            appropriate to permit a structure that would otherwise cross a  
1534            lot line created by a road parcel.

1535            d.    Restrictive covenant for private roads. All private roads must  
1536            be recorded with a restrictive covenant approved by the Board  
1537            that at a minimum ensures:

1538            i.    that the road is designed and constructed in a manner that  
1539            satisfies the requirements of this Chapter, and all  
1540            requirements made by the Montgomery County Fire  
1541            Marshal for emergency access, egress, and apparatus;

1542            ii.   regular maintenance of the road by the property owner,  
1543            with certification of regular inspections, and appropriate  
1544            financial reserves required for short- and long-term  
1545            maintenance and capital repairs;

1546            iii.  that the road remains open at all times unless approved  
1547            by the Department of Permitting Services and the Fire  
1548            Marshal; and

1549            iv.  that the County and the Commission must be fully  
1550            indemnified from all liability claims, demands, losses, or  
1551            damages to person or property.

1552    F.    Water supply and sewage disposal facilities.

1553            1.    General. Before approving a preliminary plan, the Board must  
1554            consider the availability of water and sewage facilities to the  
1555            subdivision. The Board must [[rely on]] consider the recommendation  
1556            of the Washington Suburban Sanitary Commission and the County

1557 Department of Environmental Protection, as applicable, concerning  
1558 the proper type of water supply and sewage disposal.

1559 2. Requirements.

1560 a. The applicant must install or assure installation of any required  
1561 public or private water and sewage disposal systems for each  
1562 lot.

1563 b. Central water and sewer systems. All lots must have access to  
1564 public central water and sewer facilities, and necessary private  
1565 connections to such facilities, when conditions affecting the  
1566 subject property result in one of the following determinations:

1567 i. public water and sewer connections are available to the  
1568 proposed lots for existing mains;

1569 ii. existing public water and sewer mains can be extended to  
1570 serve the lots; or

1571 iii. the County Department of Environmental Protection  
1572 determines that an interim central water supply or sewage  
1573 disposal facility, or both, must be constructed for public  
1574 health and safety, pending future extension of the WSSC  
1575 system or other public system.

1576 c. Use of County roads and State roads. For locations of any  
1577 private connection to the public system within County or State  
1578 road rights-of-way, the subdivider must obtain necessary  
1579 permits to use public roads from the County or State, as  
1580 applicable.

1581 3. Septic tiers.

1582 a. The Board must review any plan that includes residential lots  
1583 under the Growth Tier rules as follows:

1584 i. in this Subsection:

- 1585                   (a) a major subdivision is a division of land that would  
1586                               create 8 or more residential building lots; and
- 1587                   (b) a minor subdivision is a division of land that  
1588                               would create 7 or fewer residential building lots.
- 1589                   b. The Board must not approve any subdivision that would be  
1590                               served by one or more septic systems on land located in the  
1591                               Tier I area.
- 1592                   c. The Board must not approve any major subdivision that would  
1593                               be served by one or more septic systems on land located in the  
1594                               Tier II area.
- 1595                   d. The Board may approve a subdivision for any number of  
1596                               residential lots that would be served by one or more septic  
1597                               systems on land located in the Tier III area.
- 1598                   e. The Board may approve a minor subdivision that would be  
1599                               served by one or more septic systems on land located in the  
1600                               Tier IV area.
- 1601                   f. The Board may approve a major subdivision that would be  
1602                               served by one or more septic systems on land in the Tier IV  
1603                               area.
- 1604                   g. The official map displaying the Growth Tier areas as allowed  
1605                               under the Maryland Sustainable Growth and Agricultural  
1606                               Preservation Act of 2012 is located on the Planning Department  
1607                               website. The Council may amend the official map either by:
- 1608                               i. adopting Tiers in a General Plan amendment; or
- 1609                               ii. an amendment under Section 10.7.
- 1610                               The latest version of the map may be accessed from the  
1611                               Planning Department website at  
1612                               www.montgomeryplanning.org.
- 1613                   G. Markers and monuments.

- 1614 1. The subdivider must have metal property line markers, approximately  
1615 1/2-5/8 inch in diameter and 18 inches in length, or other generally  
1616 accepted survey markers, placed in the ground at all lot corners,  
1617 intersections of roads, intersections of roads and alleys with  
1618 [subdivision] record plat boundary lines, and at all points on road,  
1619 alley and boundary lines where there is a change in direction or  
1620 curvature, unless such point coincides with the location of a reference  
1621 monument. All markers must be properly set in the ground before the  
1622 roads and alleys are accepted for public maintenance. For projects that  
1623 do not include public roads, the owner and licensed land surveyor  
1624 must certify to the [[County]] Department of Permitting Services that  
1625 all property corner markers have been set by a licensed land surveyor.
- 1626 2. The licensed land surveyor hired by the owner must place markers  
1627 and monuments in the ground after road grading and paving in the  
1628 subdivision and grading and landscaping of adjacent lots are  
1629 completed. The markers and monuments must be located as specified  
1630 on the plat. The licensed land surveyor must certify to the [[County]]  
1631 Department of Permitting Services, or other appropriate governmental  
1632 agency or the municipality that all survey monuments and markers are  
1633 in place before the County or municipality accepts any road or alley  
1634 established by the plat for maintenance. The amenity bonds must not  
1635 be released by M-NCPPC until the licensed land surveyor certifies to  
1636 the Department of Permitting Services that all survey monuments are  
1637 in place.
- 1638 H. Stormwater management. All stormwater management requirements must  
1639 satisfy Chapter 19.
- 1640 I. Public utilities. Pipelines, electric power and energy lines, and  
1641 telecommunications lines must be underground in all subdivisions.
- 1642 1. Installation. Unless the Board determines that it is infeasible, the  
1643 developer must install new and existing utilities underground.

1644 2. Completion. The Board may not approve a final plat until the  
1645 developer demonstrates that the applicable utility companies or public  
1646 agencies are able to provide utility service to the subdivision.

1647 3. Easements. The Board must require the applicant to provide area for  
1648 future installation or relocation of utilities adjacent to public and  
1649 private roads, or in other appropriate locations within the development  
1650 site.

1651 J. Adequate Public Facilities Ordinance (APFO).

1652 1. Definitions. Words and phrases used in this Subsection have the  
1653 meanings indicated in Chapter 8, Section 8-30.

1654 2. Applicability. The Board may only approve a preliminary plan when it  
1655 finds that public facilities will be adequate to support and service the  
1656 subdivision. Public facilities and services to be examined for  
1657 adequacy include roads and transportation facilities, sewer and water  
1658 service, schools, police stations, firehouses, and health clinics.

1659 3. Exemptions. The following developments are exempt from the  
1660 requirements of this Subsection:

1661 a. exclusively residential development on a lot or parcel recorded  
1662 by plat before July 25, 1989, or otherwise recorded in  
1663 conformance with a preliminary plan approved before that date;

1664 b. any place of worship or use associated with a place of worship  
1665 that does not generate peak hour vehicle trips that exceed the  
1666 limits of the Subdivision Staging Policy traffic test; and

1667 c. any addition to a school associated with a place of worship that  
1668 existed before July 25, 1989.

1669 4. Approval procedure.

1670 a. Each applicant for a preliminary plan must submit sufficient  
1671 information for the subdivision to demonstrate the expected

1672 impact on and use of public facilities and services by the  
1673 subdivision.

1674 b. The Board must consider the recommendations of the  
1675 Executive and other agencies in determining the adequacy of  
1676 public facilities and services under the Subdivision Staging  
1677 Policy or other applicable guidelines.

1678 c. If the Board finds, under criteria and standards adopted by the  
1679 Council, that additional transportation facilities or traffic  
1680 mitigation measures are necessary to ensure that [[public]]  
1681 transportation facilities will be adequate to serve the  
1682 subdivision and to meet the transportation goals established by  
1683 a master plan or the Subdivision Staging Policy for that portion  
1684 of the County, the subdivision plan must be subject to the  
1685 execution of a Traffic Mitigation Agreement (TMAg).

1686 5. Validity period.

1687 a. A determination of adequate public facilities made under this  
1688 Chapter is timely and remains valid:

1689 i. for 12 years after the preliminary plan is approved for  
1690 any plan approved after July 24, 1989, but before  
1691 October 19, 1999;

1692 ii. for no less than 5 and no more than 12 years after the  
1693 preliminary plan is approved, as determined by the Board  
1694 when it approved the plan, for any plan approved after  
1695 October 18, 1999, but before August 1, 2007;

1696 iii. for no less than 7 and no more than 12 years after the  
1697 preliminary plan is approved, as determined by the Board  
1698 when it approved the plan, for any plan approved after  
1699 March 31, 2009, but before April 1, 2017; and

1700 iv. for no less than 5 and no more than 10 years after the  
1701 preliminary plan is approved, as determined by the Board

1702 when it approved the plan, for any plan approved after  
1703 July 31, 2007, and before April 1, 2009, or after March  
1704 31, 2017.

1705 b. If an applicant requests a longer validity period than the  
1706 minimum specified in 5.a, the applicant must submit a  
1707 development schedule or phasing plan for completion of the  
1708 project to the Board for its approval.

1709 i. At a minimum, the proposed development schedule or  
1710 phasing plan must show the minimum percentage of the  
1711 project that the applicant expects to complete in the first  
1712 5 or 7 years, whichever is the applicable minimum, after  
1713 the preliminary plan is approved.

1714 ii. To allow a validity period longer than the specified  
1715 minimum, the Board must find that the size or  
1716 complexity of the subdivision warrant the extended  
1717 validity period and would not be adverse to the public  
1718 interest. The Board must condition a validity period  
1719 longer than the specified minimum on adherence to the  
1720 proposed development schedule or phasing plan, and  
1721 may impose other improvements or mitigation conditions  
1722 if those conditions are needed to assure adequate levels  
1723 of transportation or school service during the validity  
1724 period.

1725 6. Validity period – County arts or entertainment use.

1726 a. A determination of adequate public facilities made under this  
1727 Chapter is timely and remains valid for 10 years after the date  
1728 of the conveyance of land to the County, or possession of  
1729 building space by the County for an arts or entertainment use,  
1730 under a preliminary plan for an optional method of  
1731 development project approved under Section 59-C-6.2356 of  
1732 the zoning ordinance in effect on October 29, 2014.

- 1733            b.    The Board must grant an application to extend the validity  
1734            period established under this paragraph for an additional 5 years  
1735            if:
- 1736            i.     at least 20 percent of the approved development,  
1737            excluding the arts or entertainment use, either separately  
1738            or in combination:
- 1739                    (a)    has been built;
- 1740                    (b)    is under construction;
- 1741                    (c)    is subject to building permits that have been  
1742                    issued;
- 1743                    (d)    is subject to a valid lease; or
- 1744                    (e)    has had a site plan approved under Sections 59-  
1745                    7.3.4 or 7.7.1.B; or
- 1746            ii.    at any time during the 24 months before the application  
1747            for extension being filed, the vacancy rate for class A  
1748            office buildings in the Central Business District in which  
1749            the project is located reaches 10 percent for direct and  
1750            sublet space combined, as measured by a commercial  
1751            Multiple Listings Service benchmark; or
- 1752            iii.   the applicant makes a binding commitment to the County  
1753            to make a contribution, as compensation for potential loss  
1754            of property tax revenues, an amount equal to \$2 for each  
1755            square foot of approved taxable improvements and  
1756            thereafter makes the contribution within 6 months of  
1757            final approval of the extension.
- 1758            c.    The validity period is extended for the duration of any  
1759            government imposed moratorium, or other government action  
1760            resulting in a similar effect, that would prevent the applicant  
1761            from:

- 1762 i. completing the regulatory approvals necessary for  
1763 obtaining a building permit; or
- 1764 ii. obtaining a building permit.
- 1765 d. If the applicant proposes to change a use in a project that is  
1766 approved under Section 59-C-6.2356 of the zoning ordinance in  
1767 effect on October 29, 2014, and the new use would have the  
1768 same or lesser impact as the original determination of adequate  
1769 public facilities, the adequate public facilities approval for the  
1770 project remains valid.

1771 7. Extensions.

- 1772 a. Application. Only the Board may extend the validity period for  
1773 a determination of adequate public facilities; however, a request  
1774 to amend any validity period phasing schedule may be  
1775 approved by the Director if the length of the total validity  
1776 period is not extended.
- 1777 i. The applicant must file an application for extension of an  
1778 adequate public facilities determination or amendment of  
1779 a phasing schedule before the applicable validity period  
1780 or validity period phase expires.
- 1781 ii. The applicant must submit a new development schedule  
1782 or phasing plan for completion of the project for  
1783 approval.
- 1784 iii. For each extension of an adequate public facilities  
1785 determination:
- 1786 (a) the applicant must not propose any additional  
1787 development above the amount approved in the  
1788 original determination;
- 1789 (b) the Board must not require any additional public  
1790 improvements or other conditions beyond those  
1791 required for the original preliminary plan;

- 1792 (c) the Board may require the applicant to submit a  
1793 traffic study to demonstrate how the extension  
1794 would not be adverse to the public interest; and
- 1795 (d) an application may be made to extend an adequate  
1796 public facilities period for a lot within a  
1797 subdivision covered by a previous adequate public  
1798 facilities determination if the applicant provides  
1799 sufficient evidence for the Board to determine the  
1800 amount of previously approved development  
1801 attributed to the lot.
- 1802 b. The Board may approve an amendment to the new development  
1803 schedule approved under paragraph 7.a.ii if the applicant shows  
1804 that financing has been secured for either:
- 1805 i. completion of at least one new building in the next stage  
1806 of the amended development schedule; or
- 1807 ii. completion of infrastructure required to serve the next  
1808 stage of the amended development schedule.
- 1809 c. *Exclusively residential subdivisions.* The Board may extend a  
1810 determination of adequate public facilities for an exclusively  
1811 residential subdivision beyond the otherwise applicable validity  
1812 period if the [[County]] Department of Permitting Services has  
1813 issued building permits for at least 50 percent of the entire  
1814 subdivision before the application for extension is filed. The  
1815 Board may approve one or more extensions if the aggregate  
1816 length of all extensions for the development does not exceed:
- 1817 i. 2.5 years for a subdivision with an original validity  
1818 period of 7 years or less; or
- 1819 ii. 6 years for a subdivision with an original validity period  
1820 longer than 7 years.
- 1821 d. *Nonresidential or mixed-use subdivisions.*

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- i. The Board may extend a determination of adequate public facilities for a preliminary plan for nonresidential or mixed-use development beyond the otherwise applicable validity period if:
  - (a) the [[County]] Department of Permitting Services issued building permits for structures that will generate at least 40% of the total approved peak-hour vehicle trips associated with the development;
  - (b) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
  - (c) the [[County]] Department of Permitting Services either issued occupancy permits or completed a final building permit inspection for:
    - (1) structures that generate at least 10 percent of the total peak-hour vehicular trips associated with the project within the 4 years before an extension request is filed; or
    - (2) structures that generate at least 5 percent of the total peak-hour vehicular trips associated with the project within the 4 years before an extension request is filed, if structures that generate at least 60 percent of the total peak-hour vehicular trips associated with the project have been built or are under construction.
- ii. For any development that consists of more than one preliminary plan, the requirements of 7.d.i apply to the combined project. A project consists of more than one preliminary plan if the properties covered by the

1853 preliminary plans of subdivision are contiguous and were  
1854 approved at the same time.

1855 iii. The length of any extension of the validity period granted  
1856 under 7.d.i must be based on the approved new  
1857 development schedule under 7.a.ii, but must not exceed:

1858 (a) 2.5 years for a subdivision with an original validity  
1859 period of 7 years or less; or

1860 (b) 6 years for a subdivision with an original validity  
1861 period longer than 7 years.

1862 iv. The extension expires if the applicant has not timely  
1863 requested an extension and the development is not  
1864 proceeding in accordance with the phasing plan, unless  
1865 the Board or the Director has approved a revision to the  
1866 schedule or phasing plan.

1867 v. In addition to the extension permitted under 7.d.iii, the  
1868 Board may approve one or more additional extensions of  
1869 a determination of adequate public facilities, not to  
1870 exceed a total of 2.5 or 6 years, as applicable, if:

1871 (a) development that generates 30% or less of the total  
1872 peak-hour vehicular trips remains to be built of  
1873 either the entire approved development or the  
1874 share of the development to be built by that  
1875 applicant; or

1876 (b) the applicant will commit to reduce the amount of  
1877 unbuilt development by at least 10%, and the  
1878 validity period for the amount to be reduced will  
1879 expire as scheduled.

1880 e. The Board may extend a determination of adequate public  
1881 facilities once for up to 12 more years beyond the otherwise  
1882 applicable validity period if the Board finds that:

- 1883                    i.     the preliminary plan for the development required a  
1884                    significant commitment of funds by the applicant,  
1885                    amounting to at least \$3 million, as adjusted annually by  
1886                    the consumer price index, to comply with specified  
1887                    infrastructure conditions;
- 1888                    ii.    the applicant has met or exceeded the required  
1889                    infrastructure conditions during the original validity  
1890                    period; and
- 1891                    iii.   the applicant's satisfaction of the required infrastructure  
1892                    conditions provides a significant and necessary public  
1893                    benefit to the County by implementing infrastructure  
1894                    goals of an applicable master plan.
- 1895                    f.     The validity period of a finding of adequate public facilities is  
1896                    not automatically extended under any circumstance, including  
1897                    when an applicant has completed all conditions imposed by the  
1898                    Board at the time of preliminary plan approval to meet adequate  
1899                    public facilities requirements.
- 1900                    g.     If a new adequate public facilities determination is required  
1901                    under this Subsection, the procedures in Chapter 8, Section 8-  
1902                    32 apply.

1903     K.     *Environment.*

- 1904                    1.     *Forest conservation.* If a forest conservation plan is required under  
1905                    Chapter 22A, the Board must not approve a preliminary plan or any  
1906                    extension until all applicable requirements of that Chapter are  
1907                    satisfied. The Board must make compliance with a required forest  
1908                    conservation plan a condition of any approved preliminary plan,  
1909                    including any plan reviewed on a preliminary or final basis.
- 1910                    2.     *Restriction of subdivision for environmental protection.*
- 1911                    a.     *Affected land.*

- 1912  
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- i. Floodplains. The Board must restrict subdivision or development of any property that is located in the 100-year floodplain as required by the [[County]] Department of Permitting Services under Chapter 19, Article III.
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- ii. Unsafe Land. The Board must restrict the subdivision or development of any land it finds to be unsafe for development because of potential for flooding or stream erosion, soils with structural limitations, unstabilized slope or fill, steep slopes, or similar environmental or topographical conditions.
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- iii. Trees, forests, and environmentally sensitive areas. The Board may restrict the subdivision or development of land to protect environmentally sensitive areas and achieve the objectives of Chapter 22A relating to conservation of tree and forest resources.
- 1927
- b. Restrictions.
- 1928  
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- i. General. In addition to any requirement imposed under Chapter 22A, the proposed preliminary plan or administrative subdivision plan may be restricted under this Section by:
- 1932  
1933
- (a) deletion or rearrangement of proposed lots, roads, utilities, and other facilities;
- 1934  
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1936
- (b) the establishment of building restriction and land disturbance limit lines, and other protective measures or conditions; or
- 1937  
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1939
- (c) requirement of conservation easements, deed restrictions, or covenants over portions of lots or unplatted parcels to be recorded.
- 1940  
1941
- ii. Building restriction line. The Board may require a building restriction line shown on the plat to protect

1942 floodplain and other environmentally sensitive or unsafe  
1943 building areas.

1944 iii. Limit of disturbance line. The Board may require a limit  
1945 of disturbance line to protect environmentally sensitive  
1946 areas or unsafe land.

1947 iv. Floodplain or unsafe land on a lot. The Board may allow  
1948 a platted lot to contain floodplain or unsafe land when  
1949 there is sufficient safe ground to erect a building within  
1950 the required setbacks of the zoning classification. The  
1951 Board may require a building restriction line on the plat.  
1952 The restriction line must provide at least a 25-foot  
1953 setback between any building and the unsafe areas. A  
1954 greater setback must be provided where necessary for  
1955 positive drainage between the building and unsafe area.

1956 v. [[Denial of a building permit. The County Department of  
1957 Permitting Services must not issue a permit for a new  
1958 building within any area for which building or land  
1959 disturbance is restricted under this Section.]]

1960 Regulations. The Planning Board may use regulations  
1961 adopted under Chapter 22A to administer this Section.

1962 L. Residential cluster subdivision.

1963 1. Purpose. The cluster method of subdivision is intended to promote  
1964 both flexibility in lot size and variety of housing types in residential  
1965 communities without changing existing densities or neighborhood  
1966 character. This method of development is also intended to encourage  
1967 the preservation of existing topography, priority forests, and  
1968 environmentally sensitive areas while providing useful community  
1969 green or open space. [[The Board must approve the use of this  
1970 optional method of subdivision.]]

- 1971            2.    Conditions for use. The use of the cluster method of development is  
1972            subject to Board approval and the following conditions and  
1973            requirements:
- 1974            a.    the requirements in Chapter 59 in the applicable zone;
- 1975            b.    except in the Rural Cluster zone or as recommended by a  
1976            master plan in the Residential Estate-2C zone, [[an applicant  
1977            may only propose a cluster development]] when WSSC will  
1978            serve the development by public water and sewer;
- 1979            c.    the open space and green areas proposed by the applicant in the  
1980            cluster development must comply with the general purpose of  
1981            cluster development, and the application must include a plan  
1982            detailing the post-development maintenance responsibilities and  
1983            use of those areas; and
- 1984            d.    the Board must count the land dedicated to public use for  
1985            school and park sites in the tract area for the purpose of  
1986            calculating density, and allow the use of the resulting density  
1987            development of the remaining land when this can be  
1988            accomplished in compliance with the purposes of this Section.
- 1989            3.    Procedure for approval.
- 1990            a.    In addition to any other required information in the preliminary  
1991            plan application, the applicant must include a statement  
1992            outlining the ownership and use of the common open space and  
1993            green area within the subdivision, and a plan showing the  
1994            construction staging of all improvements. The Board must  
1995            make the staging plan part of the preliminary plan approval and  
1996            must be subject to approval by the Board.
- 1997            b.    The Board must determine whether the site is appropriate for  
1998            cluster development and will accomplish the purposes of the  
1999            cluster method of development. In making this determination,  
2000            the Board must consider the following:

- 2001 i. the influence that the proposed development may have on  
2002 existing or future development in nearby areas;
- 2003 ii. the spatial relationship between the buildings and the  
2004 open space and green area;
- 2005 iii. the location, character, area, and dimensions of the open  
2006 space and green area and its usefulness for the common  
2007 recreational or other purposes for its intended use;
- 2008 iv. the adequacy of the staging plan;
- 2009 v. the nature of the site; and
- 2010 vi. the use and zoning of nearby land.

2011 **Division 50.5. Pre-Preliminary Submissions**

2012 **Section 5.1. Filing and Specifications**

- 2013 A. Filing. Before a subdivider submits a preliminary plan, the subdivider may  
2014 seek advice on limited aspects of a future subdivision plan from the Planning  
2015 Department Staff, the Development Review Committee, or the Board as  
2016 appropriate, or seek a binding decision from the Board. The Applicant must  
2017 file a pre-preliminary submission and applicable supporting information,  
2018 together with an application form and fee under Section 4.1.A.
- 2019 B. The drawing. A pre-preliminary drawing must contain the location of the  
2020 property and sufficient information concerning the issue on which advice or  
2021 a decision is requested. The drawing may include, but is not limited to:
- 2022 1. the generalized layout of the subdivision;
- 2023 2. the location and classification of roads, public rights-of-way, existing  
2024 and proposed easements, and dedications of land;
- 2025 3. the method of controlling erosion, sediment, and stormwater;
- 2026 4. the relationship to existing or planned subdivisions;
- 2027 5. the provisions for water and sewerage; and

2028           6.     any other features or information the applicant chooses to submit.

2029     **Section 5.2. Approval Procedure**

2030     A.     Referral. Application processing and referral of the plan must satisfy  
2031             Sections 4.1.D and 4.2.A.

2032     B.     Hearing date. The Board must schedule a public hearing to begin within 90  
2033             days after the date an application is accepted. The Director may postpone the  
2034             public hearing once, by up to 30 days, without Board approval. The Director  
2035             or applicant may request an extension beyond the original 30 days with  
2036             Board approval. Any extension of the public hearing must be noticed and on  
2037             the Board's hearing agenda with the new public hearing date indicated.

2038     C.     Action on a pre-preliminary submission.

2039           1.     Advisory. The Development Review Committee must provide  
2040             recommendations on the pre-preliminary plan on the day of the  
2041             scheduled committee meeting. Planning Department Staff must  
2042             transmit the recommendations provided by agencies outside of the  
2043             committee meeting to the applicant when they are received.

2044           2.     Binding.

2045           a.     After receiving the recommendations of the public agencies and  
2046             the advice of the Development Review Committee, the  
2047             Planning Department Staff must present the application to the  
2048             Board, together with its recommendations for approval,  
2049             disapproval, or approval with conditions. The Board must act  
2050             to:

2051           i.     approve the pre-preliminary submission;

2052           ii.    disapprove it, stating in writing the reasons for  
2053             disapproval; or

2054           iii.   approve it, subject to such conditions or modifications as  
2055             the Board finds necessary. Approval of any feature of a  
2056             pre-preliminary submission does not limit the ability of

2057 the Board to impose further conditions at the time of  
2058 preliminary plan on features not included in the Board's  
2059 binding decision.

2060 3. Modification of preliminary plan procedures after pre-preliminary  
2061 submission approval.

2062 a. A subdivider must file an application for a preliminary plan  
2063 within 90 days after the date of mailing of the Board resolution  
2064 for the pre-preliminary plan; otherwise, the approval will  
2065 expire.

2066 b. The procedures in Sections 4.1 and 4.2 are modified as follows:

2067 i. the preliminary plan application must contain the  
2068 statement of the Board's action on the pre-preliminary  
2069 application;

2070 ii. in their review of the preliminary plan under Section 4.2,  
2071 the agencies to which the preliminary plan is referred and  
2072 the Planning Department Staff must not recommend  
2073 changes or modifications to the binding pre-preliminary  
2074 decision made by the Board, unless requested in writing  
2075 by the applicant or unless the applicant substantially  
2076 changes some feature of the approved pre-preliminary  
2077 submission. The Board must review any conditions  
2078 imposed as part of the Board's binding decision to  
2079 determine that the preliminary plan satisfied those  
2080 conditions; and

2081 iii. the Board, in its review of the preliminary plan, must  
2082 consider only those features of the preliminary plan that  
2083 are not in conformity with the conditions imposed by the  
2084 Board in the pre-preliminary application review, plus any  
2085 features not considered or acted upon in that review.

2086 **Division 50.6. Administrative Subdivision Plan**

2087 **Section 6.1. Applicability**

2088 The subdivider may file an administrative subdivision plan application instead of a  
2089 preliminary plan under the following circumstances. The Director must review the  
2090 necessary technical requirements of the administrative subdivision plan under  
2091 Section 4.3.

2092 A. *Existing places of worship and institutional uses.* The Board may approve a  
2093 lot created for existing facilities such as: places of worship, private schools,  
2094 country clubs, private institutions, and similar uses located on unplatted  
2095 parcels, if:

2096 1. the applicable requirements for adequate public facilities under  
2097 Section 4.3.J are satisfied before approval of the plat;

2098 2. any required road dedications, or covenants for future dedications, are  
2099 shown on the record plat;

2100 3. requirements for meeting forest conservation, stormwater  
2101 management, and environmental protection, if applicable, are satisfied  
2102 before approval of the plat;

2103 4. it is located in a special protection area and all applicable special  
2104 protection area requirements and guidelines are satisfied before  
2105 approval of the plat;

2106 5. a landscaping and lighting plan including the parking lot layout is  
2107 submitted for Planning Department Staff approval before approval of  
2108 the plat; and

2109 6. the property is the subject of an approved conditional use and all  
2110 conditions of the conditional use approval remain in full force.

2111 B. *Subdivision for creation of certain residential lots located in the*  
2112 *Agricultural Reserve zone.* Up to 5 lots for detached houses are permitted  
2113 under these procedures in the AR zone if:

- 2114 1. written approval for a proposed well and septic area is received from  
2115 the [[County]] Department of Permitting Services before approval of  
2116 the plat;
- 2117 2. any required road dedications and public utility easements along the  
2118 frontage of the proposed lots are shown on the record plat, and the  
2119 applicant provides any required improvements;
- 2120 3. the requirements for adequate public facilities under Section 4.3.J are  
2121 satisfied before approval of the plat;
- 2122 4. a covenant is recorded for the unplatted balance of the tract noting that  
2123 density and development rights have been used for the new lots [[.  
2124 This covenant must be]] and noted on the record plat for the lots;
- 2125 5. lots created in the AR zone through this procedure are 5 acres or less,  
2126 unless approved by the Board; and
- 2127 6. forest conservation and environmental protection requirements are  
2128 satisfied before approval of the plat.
- 2129 C. Subdivision for creation of certain residential lots. Up to 3 lots for detached  
2130 houses are permitted in any residential zone under these procedures [[in the  
2131 Residential Estate-2, Rural, Rural Cluster, and Rural Neighborhood Cluster  
2132 zones, or one lot for a detached house created in any residential zone by  
2133 platting the entirety of one existing unplatted parcel created before October  
2134 8, 1985,]] if:
- 2135 1. the lots are approved for standard method development;
- 2136 2. written approval for any proposed well and septic area is received  
2137 from the [[County]] Department of Permitting Services, Well and  
2138 Septic Section before approval of the plat;
- 2139 3. any required road dedications and associated public utility easements  
2140 are shown on the plat and the applicant provides any required  
2141 improvements;

2142 4. the requirements for adequate public facilities under Section 4.3.J are  
2143 satisfied before approval of the plat; and

2144 5. forest conservation, stormwater management, and environmental  
2145 protection requirements are satisfied before approval of the plat.

2146 D. Consolidation of existing lots or parts of lots in a nonresidential zone. In a  
2147 nonresidential zone, a lot may be created by combining existing adjoining  
2148 lots, or a lot and a part of a previously platted lot, if:

2149 1. the lots or parts of lots are:

2150 a. created by the same subdivision, and any applicable conditions  
2151 of the original subdivision approval, including limits on  
2152 density, remain in effect; or

2153 b. created by a subdivision approval without specific density  
2154 limits and the new lot is limited to the density of the existing  
2155 development;

2156 2. any required road dedications and public utility easements along the  
2157 frontage of the proposed lots are shown on the record plat, and the  
2158 applicant must provide any required improvements;

2159 3. where new development is proposed, the requirements for adequate  
2160 public facilities under Section 4.3.J are satisfied before approval of the  
2161 plat;

2162 4. forest conservation, stormwater management, and environmental  
2163 protection requirements, if applicable, are satisfied before approval of  
2164 the plat; and

2165 5. located in a special protection area, and all applicable special  
2166 protection area requirements and guidelines are satisfied before the  
2167 Board approves the plat.

2168 **Section 6.2. Filing Requirements**

- 2169 A. Filing. The Applicant must file the administrative subdivision plan and  
2170 applicable supporting information, together with an application form and fee  
2171 to satisfy Subsection 4.1.A.
- 2172 B. Application processing.
- 2173 1. The applicant must submit an initial application to the Director. The  
2174 Director must review the application for completeness within 5 days  
2175 after receipt. An application is incomplete if any required element is  
2176 missing or is facially defective, e.g., a drawing that is not to scale. The  
2177 assessment of completeness must not address the merits of the  
2178 application.
- 2179 2. The applicant must resubmit a revised application within 10 days from  
2180 the date of the written rejection, or the application will be  
2181 automatically withdrawn. The Director must review the revised  
2182 application for completeness within 5 days after receipt.
- 2183 3. The administrative subdivision plan is deemed filed when the  
2184 application has been accepted as complete for review.
- 2185 4. Public notice is required per a regulation approved under Section 10.1.
- 2186 C. The drawing. An administrative subdivision plan must contain sufficient  
2187 information relevant to the aspects of the submission. The plan must include  
2188 the generalized layout of the subdivision and any other features or  
2189 information needed to support submission of a plat.

2190 **Section 6.3. Approval Procedures**

- 2191 A. Referral of plan. Immediately after accepting an application, the Director  
2192 must send a copy to the Development Review Committee and other  
2193 reviewing agencies for the agencies' comments concerning the plan. The  
2194 Development Review Committee must provide recommendations to the  
2195 Director on the administrative subdivision plan at or before the committee  
2196 meeting.
- 2197 B. Action on an administrative subdivision plan.

2198 1. After receiving the recommendations of the Development Review  
2199 Committee and other reviewing agencies, and considering  
2200 correspondence from other interested parties, the Director must  
2201 approve or disapprove the administrative subdivision plan in writing.  
2202 In the alternative, the Director may require that the plan be acted on  
2203 by the Board. When applicable, the Director must schedule Board  
2204 action on its next available agenda. If approved, the plan will remain  
2205 valid under Section 4.2.G, by which time a plat must be recorded.

2206 2. All necessary improvements to support the development must be  
2207 completed or assured under Section 10.2.

2208 ~~[[3.~~ If correspondence is received, the Director must decide whether any  
2209 comment is substantive enough to require that the plan be acted on by  
2210 the Board. When applicable, the Director must schedule Board action  
2211 on its next available agenda. If approved, the plan will remain valid  
2212 under Section 4.2.G, by which time a plat must be recorded.]]

2213 ~~[[4]]~~3. The Director must take action on an administrative subdivision plan  
2214 or schedule a public hearing within 90 days after the date an  
2215 application is accepted. The Director may postpone the public hearing  
2216 once, by up to 30 days, without Board approval. The Director or  
2217 applicant may request an extension beyond the original 30 days with  
2218 Board approval. Any extension of the public hearing must be noticed  
2219 and on the hearing agenda with the new public hearing date indicated.

2220 C. Appeal of an administrative subdivision plan.

2221 1. Appeal to the Planning Board. After the Director issues a written  
2222 decision on an administrative subdivision plan, an applicant or party  
2223 who ~~[[received notice of the application and]]~~ testified or submitted  
2224 testimony on the plan may appeal the decision to the Board within 30  
2225 days.

2226 2. Hearing. The Board must hold a *de novo* hearing on the appeal. The  
2227 Board must adopt a written resolution explaining its decision. For

2228 purposes of judicial review, the decision of the Board is the final  
2229 agency action.

2230 **Division 50.7. Minor Subdivision**

2231 **Section 7.1. Applicability**

2232 The submission of a preliminary plan or administrative subdivision plan under  
2233 Sections 4.1 and 4.2, and Sections 6.1 and 6.2, is not required for:

2234 A. *Minor lot line adjustment.* The sale or exchange of part of a lot between  
2235 owners of adjoining lots for the purpose of small adjustments in boundaries,  
2236 if:

2237 1. the total area of the adjustment is 5 percent or less of the combined  
2238 area of the lots affected by the adjustment;

2239 2. additional lots are not created;

2240 3. the adjusted lot line is approximately parallel with the original lot line  
2241 or, if it is proposed to intersect with the original line, it does not  
2242 significantly change the shape of the lots involved;

2243 4. the owner submits a scaled drawing for review and approval by the  
2244 Director. The drawing may be a copy of the existing record plat and  
2245 must contain the following information:

2246 a. proposed lot line adjustment as a dashed line;

2247 b. any buildings, driveways, or other improvements located within  
2248 15 feet of the proposed adjusted lot line;

2249 c. any minimum building setback that would be altered by the  
2250 minor lot line adjustment; and

2251 d. the amount of lot area affected by the minor lot line adjustment;

2252 5. The drawing is approved, revised, or denied by the Director in writing  
2253 within 10 days after the drawing is submitted or it is deemed  
2254 approved.

2255 A record plat application must be submitted to the Director within 90  
2256 days after approval or the approval is void.

2257 Any minor lot line adjustment between properties that occurred before May  
2258 19, 1997 remains as an exemption to platting under Subsection 3.3.B.3.

2259 B. Conversion of an outlot into a lot. An outlot may be converted into a lot if:

2260 1. the outlot is not required for open space or green area, or is otherwise  
2261 constrained in a manner that prevents it being converted into a  
2262 buildable lot;

2263 2. there is adequate sewerage and water service to accommodate  
2264 development on the lot;

2265 3. all applicable requirements or agreements under the Adequate Public  
2266 Facilities Ordinance in Subsection 4.3.J and the Subdivision Staging  
2267 Policy are satisfied before recording the plat;

2268 4. all applicable conditions or agreements applicable to the original  
2269 subdivision approval creating the outlot apply to the new lot. The  
2270 conditions and agreements may include, but are not limited to, any  
2271 adequate public facilities agreement, conservation easement, or  
2272 building restriction lines; and

2273 5. the outlot is located within a special protection area and all applicable  
2274 special protection area requirements and guidelines, including the  
2275 approval of a water quality plan, are satisfied before recording the  
2276 plat.

2277 C. Consolidation. Adjoining properties in the Rural Residential or Residential  
2278 Detached zones, not developed under cluster provisions, may be combined  
2279 in the following ways:

2280 1. by consolidating 2 or more lots into a single lot, consolidating lots and  
2281 an outlot into a single lot, or consolidating a lot and an abandoned  
2282 road right-of-way, if:

- 2283 a. any conditions applicable to the original subdivision remain in  
2284 effect;
- 2285 b. the number of trips generated on the new lot do not exceed  
2286 those permitted for the original lots; and
- 2287 c. all required right-of-way dedication is provided.
- 2288 2. by consolidating an existing platted lot or part of a lot that contains a  
2289 legally constructed detached house, with a piece of land created as a  
2290 result of a deed, if:
- 2291 a. the portion of land created by deed cannot itself be platted  
2292 under the area and dimensional standards of the zone;
- 2293 b. any conditions applicable to the existing lot remain in effect on  
2294 the new lot;
- 2295 c. any required road dedication is provided; and
- 2296 d. the existing platted lot was not identified as an outlot on a plat.
- 2297 D. Subdivision to reflect ownership. A recorded lot approved [[Plats]] for a  
2298 commercial, industrial, or multi-unit residential [[lot]] use may be  
2299 [[recorded]] resubdivided to create or delete an internal lot to reflect a  
2300 change in ownership, deed, mortgage, or lease line [[as follows:
- 2301 1. a plat may be filed to create or delete an internal lot or create  
2302 ownership lots within a previously recorded lot,]] if:
- 2303 [[a]] 1. all conditions of approval for the original subdivision that  
2304 created the lot remain in effect;
- 2305 [[b]] 2. the total maximum number of trips generated on all new  
2306 lots [[or ownership lots]] created will not exceed the number of  
2307 trips approved for the lot in the original subdivision;
- 2308 [[c]] 3. all land in the original subdivision lot is included in the plat;  
2309 and

2310 [[d]]4. all necessary code requirements of Chapters 8, 19, and 22  
2311 are met and any necessary cross easements, covenants, or other  
2312 deed restrictions necessary to implement all the conditions of  
2313 approval on the lot in the original subdivision are executed  
2314 before recording the plat.

2315 [[2. for ownership lots, the lot in the original subdivision is considered a  
2316 single lot of record. Any ownership lot created under this Subsection  
2317 is only for the convenience of the owner; an ownership lot is not:

2318 a. used to determine building setbacks or to establish conformance  
2319 with any other law or regulation;

2320 b. a bar to receiving a building permit or other approval necessary  
2321 to develop or use any of the ownership lots and structures on  
2322 such lots, including structures that cross an ownership line; and

2323 c. a change to any condition of approval for the subdivision that  
2324 created the lot in the original subdivision.

2325 3. ownership lots may not be used to create the outside boundaries of a  
2326 private road right-of-way parcel.]]

2327 E. *Ownership Plat.* An ownership plat may be recorded to delineate separate  
2328 ownership units within a lot approved for a commercial, industrial, or multi-  
2329 unit residential use as follows:

2330 1. Ownership units to reflect deed, mortgage, or lease lines may be  
2331 created by an ownership plat if:

2332 a. the lot on which the ownership units are created is included on  
2333 a plat approved by the Board and has site plan approval under  
2334 Section 59-7.3.4;

2335 b. the location and design of all structures on the ownership units  
2336 satisfy Chapters 8, 19, and 22;

- 2337           c.    the ownership units do not violate any other provision of law or  
2338                   adversely affect any conditions of approval for the subdivision  
2339                   plan that created the underlying lot or for the site plan;
- 2340           d.    any necessary cross easements, covenants, or other deed  
2341                   restrictions necessary to implement all conditions of approval  
2342                   are executed before recording the ownership plat; and
- 2343           e.    the ownership units are suitable for the type of development,  
2344                   the use contemplated, and the available utilities and services.
- 2345           2.    Ownership units must be depicted on the ownership plat with metes  
2346                   and bounds descriptions inside the boundary of the underlying lot as  
2347                   shown on the record plat.
- 2348           3.    Private roads may not be delineated as a separate ownership unit on an  
2349                   ownership plat.
- 2350           4.    No person can record an ownership plat, or sell any property with  
2351                   reference to an ownership plat, until the plat has been approved by the  
2352                   Board and recorded in the land records.
- 2353           5.    The Board may apply conditions to the approval of an ownership plat.
- 2354           6.    An ownership unit created under this section is not:
- 2355                   a.    a change to any condition of approval for the subdivision that  
2356                   created the lot in the original subdivision or the site plan; or
- 2357                   b.    used to establish building setbacks or to establish conformance  
2358                   with subdivision or zoning requirements.
- 2359    [[E]]E.    Plat of correction. A plat of correction may be used for any of the  
2360                   following:
- 2361                   1.    to correct inaccurate or incomplete information shown on a previously  
2362                   recorded plat, such as drafting or dimensional errors on the drawing;  
2363                   failure to include a required note, dedication, easement or other  
2364                   restriction; incorrect or omitted signatures; or other information  
2365                   normally required to be shown on a recorded plat. All owners and

2366 trustees of the land affected by the correction must sign the revised  
2367 plat. In addition, the plat of correction must identify the original plat  
2368 [[that is being replaced]] and contain a note identifying the nature of  
2369 the correction;

2370 2. to revise easements to reflect a Board action;

2371 3. to improve clarity and legibility, the owner of any lands shown on a  
2372 record plat may record an exact copy of the plat, except for necessary  
2373 change of scale and the addition of any other necessary elements to  
2374 make the plat conform to the requirements of this Chapter. The new  
2375 plat must indicate that it is an exact copy of the original plat except for  
2376 the changes made under this Subsection.

2377 ~~[[F]]~~G. Pre-1958 parcels. An unplatted parcel created by deed before June 1,  
2378 1958, if the parcel is developable for only one detached house.

2379 ~~[[G]]~~H. Creation of a lot from a part of a lot. A part of a previously recorded  
2380 lot in a Residential Detached zone that was created as a result of a deed  
2381 transfer of land from the lot may be converted into a lot if:

2382 1. the part of lot was created by deed recorded before June 1, 1958, or

2383 2. the part of lot contains a legally constructed detached house; and

2384 3. all conditions or agreements applicable to the subdivision approval  
2385 creating the original lot apply to the new lot. The conditions and  
2386 agreements may include, but are not limited to, any adequate public  
2387 facilities agreement, conservation easement or building restriction  
2388 lines.

2389 **Section 7.2. Procedure for Platting Minor Subdivisions**

2390 The subdivider of a property that satisfies the requirements for a minor subdivision  
2391 under Section 7.1 may submit an application for record plat for approval under  
2392 Section 8.1 and Section 8.2.

2393 A. Additional considerations.

2394 1. In the case of minor subdivisions, no additional improvements beyond  
2395 those required for the original subdivision are required until [[new]]  
2396 development in excess of development in the original approval occurs.

2397 2. Any lot created through the minor subdivision process and any lot  
2398 replatted as part of a minor lot line adjustment must satisfy all  
2399 applicable zoning requirements in Chapter 59.

2400 **Article III. Plats**

2401 **Division 50.8. Plats – Generally**

2402 All subdivision of land must be recorded by plat in the County Land Records. The  
2403 Clerk of the Circuit Court must only record plats approved under this Chapter.

2404 **Section 8.1. Filing and Specifications**

2405 All boundaries, road right-of-way lines, lot lines, and any other pertinent lines must  
2406 be shown together with sufficient data to locate each line and property corner on  
2407 the ground.

2408 A. Application and fee. The subdivider must file the plat drawing with the  
2409 Board, together with the application form, supporting information, and the  
2410 required plat fee. Any fees required by other County agencies in connection  
2411 with their review of plats must also be paid.

2412 B. Specifications.

2413 1. The plat accompanying the application for approval must satisfy  
2414 Section 8.1.C. The lack of information under any item specified or  
2415 inadequate information supplied by the applicant may cause the Board  
2416 to disapprove a plat.

2417 2. The Board may approve guidelines for the preparation of a record  
2418 plat.

2419 C. Plat drawing. The plat drawing prepared with the application must be an 18-  
2420 inch by 24-inch sheet, including a margin of one-half inch outside ruled  
2421 border lines. It must be accurately drawn to a scale approved by the Board  
2422 and must include the following:

- 2423 1. Title block. The title block must appear in the lower right corner of the  
2424 sheet and must include the following information:
- 2425 a. the words “Subdivision Record Plat”;
- 2426 b. approved name of the subdivision and the Section thereof,  
2427 including blocks, lots, parcels, and outlots;
- 2428 c. election district, County and State, or name of town instead of  
2429 election district, if the subdivision is in an incorporated town;
- 2430 d. scale of drawing;
- 2431 e. name of firm of licensed land surveyor who prepared the plat  
2432 and date of completion; and
- 2433 f. a description of the general purpose of the plat, including,  
2434 without limitation, plat of correction or resubdivision.
- 2435 2. Graphic details. The plat must show the following, as applicable in  
2436 each case:
- 2437 a. all property boundary lines necessary to identify the property  
2438 included in the subdivision, with a reference to the previous  
2439 conveyance by which the property was acquired. Where the  
2440 subdivision is a part of such conveyance, the boundaries shown  
2441 must include the last complete line touched on by the  
2442 subdivision or an indicated dimension describing the remainder  
2443 of the complete line. Where a subdivision includes all or parts  
2444 of 2 or more conveyances, the boundaries of such separate deed  
2445 descriptions must be indicated by light lines running through  
2446 the subdivision, together with deed reference to each original  
2447 tract or unplatted parcel;
- 2448 b. locations, widths, and names of all road rights-of-way located  
2449 in the subdivision;
- 2450 c. locations and widths of alley and mid-block pedestrian rights-  
2451 of-way or parcels;

- 2452 d. Existing and proposed encumbrances.
- 2453 i. Existing. The area and recordation reference for recorded
- 2454 easements or rights-of-way established for public
- 2455 services, conservation purposes or utilities, and other
- 2456 known encumbrances;
- 2457 ii. Proposed. Sufficient dimensions to identify the location
- 2458 of all easements or rights-of-way to be established by the
- 2459 plat and, as to each such encumbrance, the general
- 2460 purpose, and the grantee;
- 2461 iii. Environmental. Description of any conservation
- 2462 easement, in addition to any 100-year floodplain and
- 2463 100-year floodplain building restriction line required
- 2464 under Chapter 19, Article III;
- 2465 e. any areas to be reserved for common use by residents of the
- 2466 subdivision or for general public use, with the purposes
- 2467 indicated;
- 2468 f. bearings and lengths of all block and lot lines, together with the
- 2469 length of radii, arcs, and chords with chord bearings and central
- 2470 angles for all curves in the layout. A curve table must be used
- 2471 containing these data and referenced to the overall curves
- 2472 shown in the drawing.
- 2473 i. All bearings shown on plats must be referenced to the
- 2474 Maryland Coordinate System, and the survey must be
- 2475 accurately referenced to such system using conventional
- 2476 survey methods or other technology acceptable to the
- 2477 Board, except that a plat of resubdivision requiring no
- 2478 preliminary plan approval and plats of correction may be
- 2479 referenced to the plat meridian used on the original
- 2480 record plat; and

- 2481                    ii. in all cases, the meridian used must be noted alongside  
2482                    the north arrow, which is required to be shown on each  
2483                    plat;
- 2484                    g. Maryland coordinate values, tied to the Maryland Coordinate  
2485                    System, for at least 4 corners of the plan of subdivision shown  
2486                    on the plat, unless the survey is referenced to a record plat  
2487                    meridian. The identification names or numbers and coordinate  
2488                    values for the control stations used must be shown. Coordinate  
2489                    values and distance dimensions on plats must be expressed in  
2490                    feet, based on the United States Survey Foot;
- 2491                    h. the location and nature of existing property corner markers  
2492                    found that coincide with property corners held referenced on  
2493                    the plat must be labeled as such;
- 2494                    i. lots numbered in sequential order. In tracts containing more  
2495                    than one block, the blocks must be lettered in alphabetical  
2496                    order. In case there is a resubdivision of lots in any block, such  
2497                    resubdivided lots must be numbered sequentially, beginning  
2498                    with the number following the highest lot number in the block  
2499                    and the original lot lines shown dashed and original lot numbers  
2500                    shown dotted;
- 2501                    j. area in square feet, or other units shown on the plat, of each lot,  
2502                    outlot, parcel, or land dedicated to public use;
- 2503                    k. building setback lines, shown [[graphically]] with dimensions,  
2504                    where they exceed the minimum required in Chapter 59, and  
2505                    any other building restriction lines that may apply;
- 2506                    l. bearings and lengths of tie connections between all blocks and  
2507                    the plat boundary;
- 2508                    m. names and locations of adjoining subdivisions with lot and  
2509                    block numbers of immediately adjoining lots, together with plat  
2510                    references;

- 2511 n. location and apparent ownership of adjoining unsubdivided  
2512 property with land record reference, or County Register of  
2513 Wills or equity case references;
- 2514 o. vicinity map showing location of subdivision, with roads in the  
2515 immediate proximity labeled. In the case of a large subdivision  
2516 requiring multiple plats, a key map must be included to show  
2517 the location of the plat relative to the entire subdivision;
- 2518 p. bar scale;
- 2519 q. a note stating that the lots shown will have public water and  
2520 sewer, or have been approved by the [[County]] Department of  
2521 Permitting Services for the installation of individual water  
2522 supply systems or individual sewerage disposal systems;
- 2523 r. for lots developed using transferable development rights, a  
2524 statement concerning the number of development rights  
2525 transferred and the following information:
- 2526 i. the number of development rights transferred and the  
2527 serial numbers of the development rights transferred;
- 2528 ii. liber and folio reference to the transfer of development  
2529 rights easement; and
- 2530 iii. a notation of the recordation reference of a conveyance  
2531 required by Section 59-4.9.15, as amended;
- 2532 s. file number of the preliminary plan and, as applicable, the file  
2533 numbers of the site plan and project or sketch plan upon which  
2534 the plat is based;
- 2535 t. tax map reference;
- 2536 u. a table containing the total number and area in square feet of  
2537 lots, outlots, or parcels included on the plat and areas dedicated  
2538 to public use; and

- 2539 v. any other element for inclusion on the plat that is authorized by  
2540 law or regulation or required by the Board.
- 2541 3. Surveyor certificate. Certificate by the licensed land surveyor in a  
2542 form required by the Board, certifying to the accuracy of the plat and  
2543 to areas included on the plat and dedicated to public use. The  
2544 certificate must also include conveyance information with recording  
2545 references of the lands contained in the plat.
- 2546 4. Owner's Certificate. Certificate by the owner and all parties of  
2547 interest, in a form required by the Board, adopting the plat; granting  
2548 slope, utility, conservation, or any other easements; and establishing  
2549 building restriction lines that are required to be drawn or noted on the  
2550 plat per the conditions of the approved Preliminary Plan or  
2551 Administrative Subdivision Plan and dedicating to public use roads,  
2552 alleys, rights-of-way, and any other areas approved for dedication to  
2553 public use by the Board. The owner must certify that a licensed land  
2554 surveyor will be engaged to set all property corner markers under  
2555 Subsection 4.3.G.
- 2556 5. Title information notice. A statement indicating that the plat does not  
2557 show every matter affecting or restricting the ownership and use of  
2558 the property, and does not replace an examination of title or that it  
2559 notes all matters affecting title.
- 2560 6. Approval box. An approval box in a form required by the Board must  
2561 be provided. The box must provide approval space for signatures by  
2562 the Board and the [[County]] Department of Permitting Services.
- 2563 D. Multiple plats for a single subdivision. A plat may include only a portion of  
2564 the approved preliminary plan if the portion covered is in substantial  
2565 compliance with the approved staging schedule. The public improvements to  
2566 be constructed in the area covered by the plat must be sufficient by  
2567 themselves to support the development and to provide adequately for the  
2568 health, safety, and convenience of the present and future residents and for  
2569 adequate access to contiguous areas, schools, and other public sites. Any plat

2570 filed under this Subsection must show any dedication to the intersection of  
2571 all roads abutting corner lots or any other road.

2572 E. Other supporting information. The following supporting information is also  
2573 required with the plat application.

2574 1. Documents and plans. The following documents and plans must be  
2575 submitted:

2576 a. copies of all resolutions of approved sketch, project,  
2577 preliminary, and site plans upon which the plat is based;

2578 b. copies of any covenants, restrictions, or joint-use and  
2579 maintenance agreements that are in effect or may be recorded as  
2580 part of the subdivision must be filed with the Board, together  
2581 with any other supporting plans or documents required under  
2582 this Chapter and Chapter 22A;

2583 c. copies of approved, preliminary, or final forest conservation  
2584 plan, as appropriate, or exemption letter; and

2585 d. such other information required by the applicable resolutions of  
2586 the Board as a condition of approval of the preliminary plan,  
2587 project plan, sketch plan, or site plan or listed in the plat  
2588 application form.

2589 2. Preliminary plans using transferable development rights (TDRs). For  
2590 a subdivision designated in sewer category 3 conditioned upon  
2591 approval of a preliminary plan that uses TDRs, a new plat using less  
2592 than the requisite number of TDRs may not be approved until the  
2593 sewer category has been reconfirmed by the Council.

2594 3. Submission of digital plat data. Digital plat data must be submitted in  
2595 a format approved by the Director.

2596 4. Plat for a cluster subdivision.

2597 a. Any plat for a cluster subdivision must be accompanied by  
2598 covenants, agreements, or other documents showing the

2599 ownership and method of maintenance and uses of areas that  
2600 are declared to be open space for common use. Development,  
2601 construction, or other rights in the open space areas must be  
2602 limited to the indicated recreational or scenic uses only. Public  
2603 access to these areas may be limited. Covenants or agreements  
2604 must be in perpetuity and must include necessary public utility  
2605 easements.

2606 b. Plats may be submitted in phases; however, density on any one  
2607 plat may not exceed 115 percent of the allowed density of the  
2608 area included on the plat.

2609 c. Plats must contain a statement that the land shown on the plat  
2610 lies within an approved cluster subdivision and resubdivision  
2611 that would result in the creation of additional lots is not  
2612 permitted after the property is platted.

2613 d. Covenants or joint use and maintenance agreements affecting  
2614 the common lands must be recorded simultaneously with the  
2615 plat.

2616 F. Application processing.

2617 1. The applicant must submit a plat application to the Director. The  
2618 Director must review the application for completeness within 5 days  
2619 after receipt. An application is incomplete if any required element is  
2620 missing. The assessment of completeness must not address the  
2621 accuracy of any of the elements or the merits of the application. The  
2622 Director has the authority to reject the plat application if it does not  
2623 contain the required information. The rejection must be in writing and  
2624 specify the deficiencies.

2625 2. The applicant must resubmit a revised plat application within 10 days  
2626 from the date of the written rejection, or the application will be  
2627 automatically withdrawn.

2628 **Section 8.2. Approval Procedure**

- 2629 A. Referral of the plat application. After accepting a plat application, the  
2630 Director must begin review and send a copy to each agency that has review  
2631 authority for roads, utilities, or other public services that will serve the  
2632 proposed subdivision, for the agency's recommendation concerning the plat.
- 2633 B. Review and recommendation. The Director and other reviewing agencies  
2634 must submit final recommendation on the plat application within 90 days  
2635 after the date the application is accepted.
- 2636 C. Plat to comply with approved preliminary plan and site plan where  
2637 required.
- 2638 1. With the exception of a minor subdivision, as defined in this Chapter,  
2639 no plat may be approved unless it complies with the preliminary plan  
2640 as approved by the Board; however, the Board may allow for minor  
2641 modifications from the preliminary plan which, in its opinion, do not  
2642 alter the intent of its previous approval.
- 2643 2. In those situations where a site plan is required, the Board may refuse  
2644 to approve a plat until a site plan is approved under Section 59-7.3.4.
- 2645 D. Road and storm drain plans. Before submitting a final plat, the applicant  
2646 must obtain approval from the appropriate agency for the following plans:
- 2647 1. final grade and profile plan for roads and pedestrian paths, except  
2648 where the grades of the roads have already been established; and
- 2649 2. a storm drainage concept plan.
- 2650 E. Final plat. The applicant must submit a final plat legibly printed in black ink  
2651 on a permanent, reproducible medium acceptable to the Director that  
2652 incorporates the recommendations of the reviewing agencies.
- 2653 F. Planning Board to act within 30 days. The Board must act to approve or  
2654 disapprove a final plat within 30 days after its submittal; otherwise, the plat  
2655 will be deemed approved. The applicant may waive this requirement and  
2656 consent to an extension. If the plat is disapproved, the reasons must be stated  
2657 in the minutes of the Board and provided to the applicant.

2658 G. *Planning Board may hold hearing on any plat. The Board may, upon its*  
2659 *own motion, hold a hearing before acting upon any plat, with notice required*  
2660 *by the Board's Rules of Procedure.*

2661 H. *Planning Board may give conditional approval. In the case of a plat*  
2662 *requiring additional supporting data, the Board may give conditional*  
2663 *approval, requiring the applicant to provide the Board with the supporting*  
2664 *data.*

2665 I. *Signing. A plat must be signed by applicable County agencies with review*  
2666 *authority before Board action on the plat, unless the Board specifically*  
2667 *permits the signature to be added as a condition of its approval. The plat*  
2668 *must be signed by the authorized officers of the Board after the Board acts to*  
2669 *approve the plat or, in cases of conditional approval, when the conditions are*  
2670 *satisfied.*

2671 **Section 8.3. Recording Procedure**

2672 A. *Processing of plats.*

2673 1. *The Planning Department Staff must reproduce a sufficient number of*  
2674 *copies of an original approved plat for applicable local agencies and*  
2675 *the plat preparer.*

2676 2. *The official seal of the licensed land surveyor who prepared the plat*  
2677 *must be impressed upon the original approved plat and reproductions.*

2678 B. *Recordation. The reproductions required by the Clerk of the Circuit Court*  
2679 *must be transmitted with the appropriate recording fee within 7 days*  
2680 *following completion of processing for recordation in the land records. Once*  
2681 *recorded, the original approved plat must be filed in the vault provided by*  
2682 *the Commission and remain there, unless required by court order as an*  
2683 *exhibit.*

2684 C. *Indexing. The Clerk of the Circuit Court must record the plat and enter it in*  
2685 *the general index of the land records. All plats filed and recorded must be*  
2686 *indexed both in the name of the subdivision and in the name of the owners*  
2687 *signing the plat.*

2688 D. Effect of filing. Plats, when filed and recorded under this Chapter, constitute  
2689 a part of the land records of the County and have the same effect as properly  
2690 recorded deeds.

2691 **Section 8.4. Abandonment of Land Dedicated for Public Use**

2692 A. Land dedicated to the County for public use. When a record plat contains  
2693 land dedicated to the County for public use, the dedication must be in  
2694 perpetuity and must not be altered or taken for private use. However, the  
2695 person who originally filed the plat, any successor in interest, or the County  
2696 may petition to abandon any land dedicated under this [[Subsection]]  
2697 Section. Abandonment of all or part of the dedicated land may be authorized  
2698 by:

- 2699 1. the Council under Section 49-63, if the land has been in public use; or  
2700 2. the Board under Section 49-68, if the land has not been in public use.

2701 B. Land dedicated to other public entity. Land dedicated to a public entity other  
2702 than the County, including the Commission, may be abandoned according to  
2703 procedures adopted by or applicable to that public entity.

2704 **Article IV. Administration**

2705 **Division 50.9. Waivers from this Chapter**

2706 **Section 9.1. Authority of Planning Board**

2707 The Board may grant a waiver from a requirement of this Chapter after making the  
2708 required findings.

2709 **Section 9.2. Application**

2710 A request for a waiver must be submitted to the Board in writing, stating all facts  
2711 supporting approval of a waiver.

2712 **Section 9.3. Findings**

2713 A. To grant a waiver, the Board must find that:

- 2714       1.     due to practical difficulty or unusual circumstances of a plan, the  
2715             application of a specific requirement of the Chapter is not needed to  
2716             ensure the public health, safety, and general welfare;
- 2717       2.     the intent of the requirement is still met; and
- 2718       3.     the waiver is:
- 2719             a.     the minimum necessary to provide relief from the requirements;  
2720                     and
- 2721             b.     consistent with the purposes and objectives of the General Plan.

2722     **Section 9.4. Conditions**

2723     The Board may condition the waiver approval.

2724     **Section 9.5. Procedure for Granting Waivers**

- 2725     A.     Referral for recommendations. The Director must send a copy of each  
2726             waiver request to the applicable Development Review Committee agencies  
2727             for investigation, report, and written recommendation before acting on the  
2728             request. For waivers requested as part of a preliminary plan, administrative  
2729             preliminary plan, or pre-application submission, [[Those]] those agencies  
2730             must submit any report and recommendation on the waiver in the timeframes  
2731             required for those plans. For separate waiver requests, final recommendation  
2732             must be provided to the Director within [[20]] 30 days after receiving the  
2733             request, or the recommendation must be treated as favorable.
- 2734     B.     The Director must publish a report and recommendation at least 10 days  
2735             before the scheduled Board hearing. A waiver request filed under this  
2736             Section may be used as grounds for a request to extend the time  
2737             requirements in Sections 4.2 and 8.2.
- 2738     C.     Resolution. The Board must make its decision by resolution.
- 2739     D.     Non-waiver of other ordinances. When granting a waiver, the Board must  
2740             not change any other requirement of law.

2741     **Division 50.10. Administrative Procedures**

2742 **Section 10.1. Regulations**

2743 The Board may adopt regulations and necessary procedures under Chapter 2A,  
2744 Section 15, Method (2) to administer this Chapter.

2745 **Section 10.2. Bonding and Surety**

2746 A. *Guarantee of completion of improvements before recording final plat.*

2747 1. Before plat recordation, the Board or applicable public agency must  
2748 certify that the subdivider has obtained the necessary permits and  
2749 bonds or provided other surety that ensures completion of all required  
2750 public and private improvements on the land covered by the plat being  
2751 recorded.

2752 2. As an alternative to the requirements of Subsection 10.2.A.1, if  
2753 approved by the applicable public agency, a public improvement  
2754 agreement may be executed between the applicant and the agency to  
2755 ensure completion of public improvements.

2756 3. When the subdivider or developer is required by regulations of the  
2757 WSSC to record a final plat dedicating public roads in excess of a  
2758 current building phase to obtain installation of water and sewer to the  
2759 site, surety as required by the Road Design and Construction Code for  
2760 road improvements for such excess platting may be delayed under the  
2761 approved timing sequence of the proposed development approved by  
2762 the applicable County agency.

2763 **Section 10.3. Establishment of Adequate Public Facilities Guidelines**

2764 A. The Council must establish by resolution, after public hearing, the process to  
2765 determine the adequacy of public facilities and services. A subdivision  
2766 staging policy approved by the Council may serve this purpose if it contains  
2767 those guidelines. To provide the basis for the Council resolution, the Board  
2768 and the County Executive must provide the following information and  
2769 recommendations to the Council:

2770 1. the Board must provide analyses of current growth and the amount of  
2771 additional growth that can be accommodated by public facilities and

2772 services. The Board must also provide recommendations of any  
2773 changes in preliminary plan approval criteria it deems appropriate;  
2774 and

2775 2. the County Executive must provide comments on the Board's  
2776 analyses and recommendations and recommend criteria to determine  
2777 the adequacy of public facilities.

2778 **Section 10.4. Establishment of a Development Review Committee**

2779 The Board must establish a review committee consisting of Planning Department  
2780 Staff and staff of any County, State, and Federal agency; municipality; and utility  
2781 companies to which a plan has been referred. The committee must meet with  
2782 applicants and other interested persons to facilitate agency review of the plan, and  
2783 may reconcile conflicting requirements by different agencies. Each reviewing  
2784 agency must designate a representative to the committee. For the purpose of plan  
2785 review, the head of any participating County agency must delegate authority to a  
2786 representative to speak for the agency.

2787 **Section 10.5. Establishment of Fees**

2788 The Board must approve by resolution the fees necessary to cover the cost of  
2789 administering this Chapter.

2790 **Section 10.6. Enforcement of Chapter**

2791 **A. Notice of violation.**

2792 1. The Director may issue a notice of violation to a person whom the  
2793 Director believes committed a violation of a Planning Board Action or  
2794 this Chapter. A notice of violation issued under this Subsection must  
2795 be served on the alleged violator personally, on the alleged violator's  
2796 agent at the site of the alleged violation, or by certified mail to the  
2797 alleged violator's last known address.

2798 2. The notice of violation must contain at least the following  
2799 information:

2800 a. the name of the person charged;

- 2801            b.    the nature of the violation;
- 2802            c.    the place where and the approximate date when the violation  
2803            occurred; and
- 2804            d.    a statement advising the alleged violator of the corrective or  
2805            remedial action that must be taken and the date by which the  
2806            corrective or remedial action must be completed. The corrective  
2807            or remedial action may include a meeting with Planning  
2808            Department Staff to establish a compliance plan.

2809    B.    *Administrative citation.*

- 2810            1.    The Director may deliver an administrative citation to a person whom  
2811            the Director believes committed a violation of a Planning Board  
2812            action or this Chapter. The Director must attest to the truth of the facts  
2813            and allegations in the administrative citation. An administrative  
2814            citation issued under this Subsection must be served on the alleged  
2815            violator personally, on the alleged violator's agent at the site of the  
2816            alleged violation, or by certified mail to the alleged violator's last  
2817            known address.
- 2818            2.    The administrative citation must contain at least the following  
2819            information:
- 2820            a.    the name and address of the person charged;
- 2821            b.    the nature of the violation;
- 2822            c.    the place where and the approximate date when the violation  
2823            occurred;
- 2824            d.    the amount of fine assessed;
- 2825            e.    where, when, and to whom the fine may be paid; and
- 2826            f.    a statement advising the violator of the right to a hearing before  
2827            the Board or its designee.

2828    C.    *Notice of hearing.*

2829           1.    The Director may issue a notice of hearing to a person whom the  
2830                    Director believes committed a violation of a Planning Board Action or  
2831                    this Chapter. The notice of hearing must be served on the alleged  
2832                    violator personally, on the alleged violator's agent at the site of the  
2833                    alleged violation, or by certified mail to the alleged violator's last  
2834                    known address.

2835           2.    The notice of hearing must contain at least the following information:

2836                   a.    the name of the person charged;

2837                   b.    the nature of the violation;

2838                   c.    the place where and the approximate date when the violation  
2839                    occurred; and

2840                   d.    a statement advising the alleged violator of the date, time, and  
2841                    location of the hearing before the Board or its designee.

2842    D.    Civil fine and penalty.

2843           1.    A citation may require the recipient to pay a civil fine for a violation  
2844                    of a Planning Board action.

2845           2.    The fine for each violation of a Planning Board action is the  
2846                    maximum allowed by the Land Use Article §23-505 of the Maryland  
2847                    Code for each day that the violation continues.

2848           3    Each day that a violation has not been corrected is a separate  
2849                    violation, and the applicable fine may continue to accrue each day  
2850                    until the violation is corrected without issuing a new citation each day.

2851           4.    In addition to any other remedy under this Article, a person who  
2852                    violates this Chapter, a Planning Board Action, any applicable  
2853                    regulation or any associated agreement or restriction may be subject to  
2854                    an administrative civil penalty. The administrative civil penalty must  
2855                    not exceed 150 percent of the estimated cost to bring the violation into  
2856                    compliance.

- 2857 5. In setting the amount of the administrative civil penalty, the Board or  
2858 its designee must consider:
- 2859 a. the willfulness of the violation;
- 2860 b. the degree of deviation from the approved Planning Board  
2861 action;
- 2862 c. the cost of any needed corrective action or restoration;
- 2863 d. any adverse impact on the immediate neighborhood and the  
2864 larger community;
- 2865 e. the extent to which the subject violation is part of a recurrent  
2866 pattern of the same or similar violations committed by the  
2867 violator;
- 2868 f. any economic benefit that accrued to the violator or any other  
2869 person as a result of the violation;
- 2870 g. the degree of cooperation shown, or voluntary mitigation  
2871 measures taken, by the violator;
- 2872 h. the extent to which any other person contributed to the  
2873 violation;
- 2874 i. the impact, if any, on the violator's ability to perform corrective  
2875 actions because of a change in ownership of the property; and
- 2876 j. any other relevant factor.
- 2877 6. The Board, after a public hearing on the violation, must adopt a  
2878 resolution specifying the amount of any administrative civil penalty  
2879 and the Board's reason for imposing the penalty.
- 2880 E. Nonpayment of fine.
- 2881 1. If a person who receives an administrative citation does not pay the  
2882 fine by the administrative citation's due date or file a request for  
2883 hearing, a notice must be sent to the person's last known address. If  
2884 the administrative citation is not satisfied within 15 days after the

2885 notice is issued, the recipient is liable for an additional fine, as  
2886 specified in the notice. The additional fine must be less than twice the  
2887 original fine.

2888 2. If the fine due is not paid within 35 days from the date the notice is  
2889 issued, the Board may schedule and hold a hearing.

2890 F. *Hearing.*

2891 1. A person who receives a citation imposing a civil fine may elect a  
2892 hearing before the Board or its designee by filing a written request for  
2893 hearing with the Director. The request for a hearing must be received  
2894 by the Director within 15 days after the administrative citation was  
2895 issued. The filing of a request for a hearing does not stay an  
2896 administrative order to stop work, stabilize a site, or stop a violation.

2897 2. If the Director receives a request to hold a hearing under this Article,  
2898 the Director must promptly schedule a hearing, unless the requestor  
2899 consents to a delay, and must issue a notice of hearing.

2900 3. The Board may assign a hearing officer, including a Hearing  
2901 Examiner from the Office of Zoning and Administrative Hearings, to  
2902 conduct a public hearing and submit a report and recommendation on  
2903 any alleged violation of this Chapter or a Planning Board action. The  
2904 hearing officer must submit the required report and recommendation  
2905 to the Board not later than 30 days after the hearing record closes. The  
2906 hearing officer may extend the time to file the report by notifying all  
2907 parties.

2908 4. After holding the hearing, the Board may impose any civil fine or  
2909 administrative civil penalty authorized by this Section, and also may:

2910 a. suspend or revoke the plan that is the subject of a Planning  
2911 Board Action;

2912 b. approve a compliance program that lists each remedial action  
2913 that must be taken;

- 2914 c. require the violator to post a bond or other surety to guarantee  
2915 completion of a compliance program;
- 2916 d. allow the violator to propose modifications to the plan; or
- 2917 e. take any combination of these actions.
- 2918 5. All fines, penalties, or forfeitures collected under this Section must be  
2919 remitted to the Board and placed in the general funds.
- 2920 6. The Board may spend funds from fines and penalties for project  
2921 corrections, plan enforcement or, subject to Council appropriations,  
2922 other Board purposes. The Board, in its sole discretion, may spend  
2923 collected fines or penalties to perform or correct some or all violations  
2924 noted in an administrative citation without obligating the Board,  
2925 instead of the person responsible, to correct any violation.
- 2926 G. Enforcement rules; conduct of hearing.
- 2927 1. The Board must:
- 2928 a. adopt regulations to administer and enforce this Section as a  
2929 method (2) regulation, subject to Council review under Chapter  
2930 2A, Section 15; and
- 2931 b. conduct any proceeding under this Section as provided in those  
2932 regulations.
- 2933 H. Stop work order.
- 2934 1. The enforcement agent may issue a stop work order if the  
2935 enforcement agent reasonably finds that:
- 2936 a. a person is violating any element of a Planning Board Action;  
2937 and
- 2938 b. the violation threatens or may threaten the public health, safety,  
2939 or welfare.
- 2940 2. A stop work order must include the following information as  
2941 applicable:

- 2942           a.    the name and address of the person charged;
- 2943           b.    the nature of the violation;
- 2944           c.    the place where and the approximate date when the violation  
2945                 occurred; and
- 2946           d.    a clear statement of the action that must be taken or  
2947                 discontinued to cure the violation, including any requirement to  
2948                 prepare a plan of compliance.
- 2949           3.    The enforcement agent must attest to the truth of the facts and  
2950                 allegations in the order.
- 2951           4.    The enforcement agent must prominently display the order near where  
2952                 the violation has occurred. In addition, the enforcement agent may  
2953                 deliver or mail a copy of the order to the last known address of the  
2954                 person who secured approval of the Planning Board Action.
- 2955           5.    When a stop work order is posted, the recipient must immediately  
2956                 discontinue any further work activities until the order is rescinded. A  
2957                 stop work order suspends the Board approval of the entire underlying  
2958                 plan, unless:
- 2959                 a.    the Board approves phasing of the project; and
- 2960                 b.    the enforcement agent finds that the violation involves only:
- 2961                         i.    one or more phases of a project, but not other phases of  
2962                                 the same project; or
- 2963                         ii.   activities on a single lot or parcel.
- 2964                                 In these instances, the order may only suspend the Board's  
2965                                 approval as it relates to those phases or lots where the violation  
2966                                 exists.
- 2967           6.    The recipient of a stop work order may request a hearing to contest  
2968                 the validity of the order. If the enforcement agent finds that a hearing  
2969                 before the Board is not practical in a reasonable time, the Chair or

2970 Vice-Chair of the Board may review the order. A determination by the  
2971 Chair or Vice-Chair has the same effect as if the Board reviewed the  
2972 order. The Board or Chair, if applicable, must review the order *de*  
2973 *novo*. If the violation is corrected and a plan of compliance prepared  
2974 by the recipient of the order before the hearing is confirmed by the  
2975 enforcement agent, the hearing must be cancelled.

2976 7. At the Board hearing, the enforcement agent must justify to the Board  
2977 the grounds and reasoning for issuing the order. The recipient must  
2978 explain why the order should be discontinued and may propose a plan  
2979 of compliance indicating how and when the violations will be  
2980 corrected. The Board must decide if the order should be continued,  
2981 modified, or rescinded, and if a plan of compliance should be  
2982 approved. The Board's decision that a stop work order must continue  
2983 revokes any underlying Board approvals for the entire project or any  
2984 part of the project as the Board specifies until the violation is  
2985 corrected.

2986 8. A Board decision to continue or modify an order may be the subject  
2987 of a petition for judicial review to the Circuit Court under the rules for  
2988 the review of administrative agency actions.

2989 9. A stop work order must be rescinded when the Board or the  
2990 enforcement agent finds that all violations specified in the order have  
2991 been satisfactorily corrected, which determination must not be  
2992 unreasonably withheld, or the Board approves a compliance plan that  
2993 addresses any uncorrected violation.

2994 I. *Other remedies.* The authority in this Section to impose civil fines,  
2995 administrative civil penalties, and stop work orders is in addition to any  
2996 other authority of the Board to enforce its actions, including seeking  
2997 injunctive, declaratory, or other relief. The decision to pursue one remedy  
2998 does not preclude the Board from pursuing any other available remedy.

2999 J. *Authority of the Office of the General Counsel.* The General Counsel of the  
3000 Maryland-National Capital Park and Planning Commission may prosecute

3001 and take any other necessary legal action regarding any violation under this  
3002 Section.

3003 K. *Exclusive authority.* The Board or its designee has exclusive authority to  
3004 enforce violations of a Planning Board action and any violations of this  
3005 Chapter. The authority granted in this Chapter supersedes any other  
3006 authority to enforce a Planning Board action granted to any other County or  
3007 State agency.

3008 **Section 10.7. Amendment of Chapter**

3009 A. *Procedures.* The procedures for amending Chapter 50 must satisfy Section  
3010 23-104 of the Land Use Article, Maryland Code, and the Council Rules of  
3011 Procedure.

3012 B. *Hearing.* A public hearing under the Council Rules of Procedure is required.

3013 C. *Expiration.* Any subdivision regulation introduced to amend this Chapter  
3014 expires 18 months after its introduction if it is not approved.

3015

3016 **Sec. 3. Effective Date.**

3017 This amendment takes effect 90 days after its approval by Council. The  
3018 amendment applies to any Planning Board action after the effective date of this  
3019 amendment.

3020

3021 **Sec. 4. Prior Approvals**

3022 The repeal of Chapter 50 does not affect the status of any preliminary plan or  
3023 record plat approved by the Planning Board before the effective date of this  
3024 amendment. Any violation of a Planning Board action, or the regulations  
3025 governing the applicable approval, may be enforced under Section 10.6 of this  
3026 amendment.

3027

3028 *Approved:*

3029

3030

3031 \_\_\_\_\_  
Isiah Leggett, County Executive

\_\_\_\_\_ Date

3032 *This is a correct copy of Council action.*

3033

\_\_\_\_\_ Linda M. Lauer, Clerk of the Council

\_\_\_\_\_ Date