

Bill No. 38-09  
Concerning: Growth Policy -  
Amendments  
Revised: 7-20-10 Draft No. 3  
Introduced: November 3, 2009  
Enacted: July 20, 2010  
Executive: August 2, 2010  
Effective: November 1, 2010  
Sunset Date: None  
Ch. 35, Laws of Mont. Co. 2010

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Floreen and Knapp

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**AN ACT** to:

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

By amending

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

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

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

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

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

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

3                   (a)    *Purpose; Policy.*

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

7                   (A) land use development;

8                   (B) growth management; and

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

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

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

19                  (A)   land use development;

20                  (B)   growth management; and

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

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

28 [(b) *Simplified description.*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

129 (2) If the Executive initiates an amendment:

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

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

136 Council requests an earlier response), and must make  
 137 copies of any comments available to the public; and  
 138 (C) the Council may amend the [growth] subdivision staging  
 139 policy after giving the Planning Board and Board of  
 140 Education an opportunity to comment and holding a public  
 141 hearing.

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

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

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

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

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

155 (A) the Council must send it to the Executive, the Planning  
 156 Board, and other agencies, and make copies available to  
 157 the public;

158 (B) the Executive and the Planning Board must send any  
 159 comments on the proposed amendment to the Council and  
 160 other agencies within 45 days after receiving the  
 161 amendment (unless the Council requests an earlier  
 162 response), and must make copies of any comments

163 available to the public; and

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

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

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

171 **52-47. Definitions.**

172 \* \* \*

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

176 \* \* \*

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

179 \* \* \*

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

181 \* \* \*

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

184 \* \* \*

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

187 \* \* \*

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

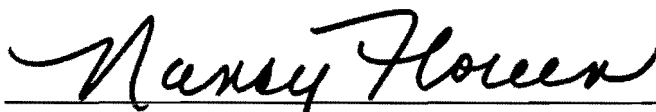


189 (a) In addition to the tax due under this Article, an applicant for a building  
190 permit for any building on which a tax is imposed under this Article  
191 must pay to the Department of Finance a School Facilities Payment if  
192 that building was included in a preliminary plan of subdivision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

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

201 \* \* \*

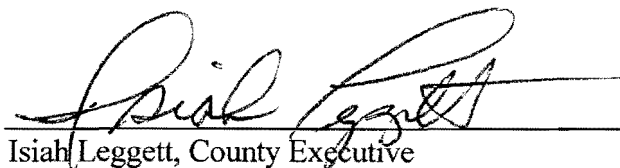
202 *Approved:*

203  
204 

Nancy Floreen, President, County Council

7/22/10  
Date

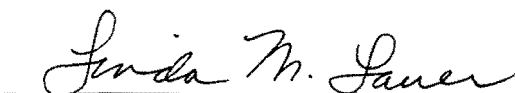
205 *Approved:*

206  
207 

Isiah Leggett, County Executive

Aug 2, 2010  
Date

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

209  
210 

Linda M. Lauer, Clerk of the Council

August 3, 2010  
Date