

Subdivision Regulation Amendment No.: 16-01
Concerning: Subdivision Regulations Rewrite
Draft No. & Date: 6 – 11/3/16
Introduced: January 12, 2016
Public Hearing: February 23, 2016
Adopted: November 15, 2016
Effective: February 13, 2017
Ordinance No: 18-19

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

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

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

Boldface	<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>

OPINION

Subdivision Regulation Amendment (SRA) 16-01, Subdivision Regulations Rewrite, sponsored by Council President Floreen at the request of the Planning Board, was introduced on January 12, 2016.

SRA 16-01 repeals and replaces all of Chapter 50 of the Montgomery County code.

In its report to the Council, the Montgomery County Planning Board recommended that the SRA be approved with amendments.

The Council held a public hearing on February 21, 2016. The Planning Board recommended approval of SRA 16-01. The SRA was referred to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation. A summary of the Council's public hearing is included in the June 20 Staff memorandum to the PHED Committee.

On October 31, 2016, after conducting other worksessions on June 20, July 18, and September 12, 2016, the Committee recommended approval of SRA 16-01 with numerous substantive amendments and amendments to make the code more precise, concise, and decisive. SRA 16-01 is a complete rewrite of the subdivision code that modernizes provisions and allows for administrative subdivision approvals under certain circumstances. The bulk of the Committee's discussions focused on 3 topics: 1) private roads; 2) ownership units (previously called ownership lots); and 3) easements for utilities.

Easements

The Committee recognized that easements for utilities are a challenge in urbanizing areas. The traditional 10 foot public utility easement along roadways would be an impediment to bringing buildings closer to the street. The Committee considered the recommendation of WSSC for minimum 10 foot wide utility easements, but did not recommend such easements to the Council. The Committee recommendation (lines 1684-1708) allows for more flexibility on the placements for easements and to provide for additional public infrastructure, particularly when there are private roads.

Ownership units

An ownership unit is an area of land shown on an ownership plat or on some record plats approved under the current code, created only for the convenience of the owner, that reflects a deed, mortgage, or lease line but does not subdivide the underlying lot. Because ownership lots affect the ownership and control of access and egress routes for the buildings on them, these "lots" have become an area of concern for the Department of Permitting Services (DPS). The Committee recommended a new provision to allow for ownership plats that recognized the concerns for public safety (Lines 2392-2423). In order to retain responsibility for a private road by the owners of abutting lots, the recommended provision does not allow a private road with a structure above or below it to be shown on a separate ownership unit.

Planning Board Discretion

The Committee recommended generally broad discretion by the Planning Board without detracting from the responsibility of Executive departments to administer County law and regulations. A particular provision recognizes this idea by allowing changes by other departments or agencies after the Board has approved a preliminary plan, if such changes are necessary to comply with a law or regulation (Lines 772-778).

Other changes

The Committee recommended changes concerning underground utilities, adequate public facilities provisions, building permit provisions, traffic mitigation agreements, the identification of encumbrances, and a codification of minimum spacing between intersections. Numerous other technical changes are detailed in the minutes of the Committee's worksessions. The Committee focused its attention on critiques of the Planning Board proposed draft. A number of substantive recommendations made by the Planning Board were accepted without discussion by the Committee.

The District Council reviewed Subdivision Regulation Amendment No. 16-01 at a worksession held on November 15, 2016 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 16-01 will be approved as amended.

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, published policy, and procedures include the applicable standards,
62 policy, and procedures of the agency responsible for maintaining the
63 infrastructure.

64 **Section 2.2. Definitions**

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

69 A.

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

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

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

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

80 Applicant, Developer or Subdivider: An individual, partnership, corporation, or
81 other legal entity and its agent that undertakes the subdivision of land or the
82 activities covered by this Chapter. The terms include all persons involved in

83 successive stages of the project, even though such persons may change and
84 ownership of the land may change. Each term includes the other.

85 B.

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

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

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

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

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

100 C.

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

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

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

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

107 *County Executive:* The Montgomery County Executive.

108 D.

109 Department of Permitting Services: The Montgomery County Department of
110 Permitting Services.

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

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

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

119 Developer: see “Applicant”.

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

122 Director: The Director of the Montgomery County Planning Department or such
123 Director’s designee.

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

126 E.

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

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

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

137 Engineer: A professional engineer registered in Maryland.

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

146 F.

147 Floodplain: as defined in Chapter 19.

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

149 G.

150 H.

151 I.

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

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

161 J.

162 K.

163 L.

164 Licensed Land Surveyor: A land surveyor who is licensed in the State to “practice
165 land surveying” as [[such terms are]] defined in the Maryland Business
166 Occupations and Professions Code Ann. Section 15-101 (1995 Repl. Vol.), as
167 amended.

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

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

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

176 M.

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

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

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

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

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

201 N.

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

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

209 O.

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

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

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

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

222 P.

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

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

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

230 Planning Board: see “Board”.

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

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

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

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

245 Q.

246 R.

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

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

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

254 Right-of-Way: Land intended for the passage of people, vehicles, or utilities, as
 255 shown on a record plat or described by a deed of dedication under Section
 256 50.3.3.A.3. [[The maker of the plat must dedicate on the plat any right-of-way
 257 involving maintenance by a public agency to public use.]] Any right-of-way for a
 258 public road must be dedicated to public use by the maker of the plat. The land area
 259 of a public right-of-way may be donated in fee to the County, state, or other
 260 governmental body. The parcel or area delineated on a plat for a private road is the
 261 private road right-of-way.

262 Road: Any street, highway, avenue, lane, alley, or viaduct, or any segment of any
 263 of them. Roads must be created by a subdivision plan under this Chapter and be
 264 shown on a record plat[[,]] or [[otherwise be]] deemed a road [[by]] under Chapter
 265 49.

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

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

273 S.

274 State: The State of Maryland.

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

279 Subdivider: see “Applicant”.

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

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

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

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

290 T.

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

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

299 U.

300 V.

301 W.

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

305 WMATA: The Washington Metropolitan Area Transit Authority.

306 WSSC: The Washington Suburban Sanitary Commission.

307 X.

308 Y.

309 Z.

310 **Division 50.3. General Requirements**

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

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

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

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

318 **Section 3.2. Record Plat Required**

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

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

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

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

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

- 333 2. Utility rights-of-way. Land used as part of an electric transmission line
334 right-of-way or other public utility right-of-way.
- 335 3. Advanced dedication or donation to the County, state, or other
336 governmental body of master planned road rights-of-way.
- 337 B. Recordation of a plat before issuance of a building permit is not required for:
- 338 1. [[Certain uses on agricultural land:]] Agricultural land used for
339 residential dwellings. An unplatted parcel of agricultural land at least
340 25 acres in size used for a primary dwelling unit if density and
341 development rights are available.
- 342 [[a. a dwelling unit on an unplatted parcel of agricultural land at
343 least 25 acres in size, if density and development rights are
344 available;
- 345 b. conditional uses associated with agriculture and approved under
346 Chapter 59, unless a subdivision is required as a condition of
347 the approval; and
- 348 c. any equestrian facility or other agricultural building on land
349 classified in the Agricultural Reserve zone.]]
- 350 2. Public transfer. A part of a lot previously shown on a record plat that
351 was created by transfer of part of the lot for public use by reference to
352 a recorded instrument, if the outlines and dimensions of such
353 remainder can be determined by reference to the previously recorded
354 plat. This provision also applies to any property that qualified for an
355 exemption under this Section before the transfer.
- 356 3. Adjoining property. A part of a lot created by deed recorded before
357 May 19, 1997 between owners of adjoining platted properties for the
358 purpose of small adjustments in boundaries. This applies only to an
359 adjustment that was less than either a total of 2,000 square feet or one
360 percent of the combined area, if additional lots were not created and
361 the total area of resulting ownership was not reduced below the
362 minimum size required by this Chapter or by Chapter 59.

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4. Property for Single-Unit Living:

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

 - i. locate the property on the tax maps of Montgomery County;
 - ii. show that the approval of the building permit application would not result in obstructing the future opening, extension, or widening of any necessary road, or otherwise jeopardize any planned public facility;
 - iii. show that the property and use comply with the zoning ordinance, and show the setbacks and any other information needed to check compliance with regulations, including provisions for water and sanitary service, and establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width; and
 - iv. show that the approval of the permit would not adversely affect the General Plan.

- b. [[Reconstruction]] An unplatted parcel or a part of a previously platted lot used for reconstruction of an existing detached house under Chapter 59, Section 7.7.1.
- c. An unplatted parcel created by combining the entirety of two or more contiguous parcels that qualified for an exemption under Subsection (a).

393 [[5. Telecommunications facilities. Telecommunications towers/antennas,
394 including associated accessory structures.]]

395 [[6]]5. *Certain residential property in the City of Takoma Park.*
396 Property located in the portion of the City of Takoma Park annexed
397 into Montgomery County on July 1, 1997 that was recorded by a deed
398 before January 1, 1982 and remains otherwise buildable under the
399 Prince George’s County Zoning and Subdivision Regulations on June
400 30, 1997, if a description and locational survey drawing of the
401 property and proposed structure are submitted to locate them on the
402 tax map of Montgomery County.

403 [[7]]6. *Certain commercial properties adjoining State highways. An*
404 addition to a building on property zoned for commercial uses:

- 405 a. adjoining a State highway;
- 406 b. located within a State-approved Community Legacy Plan Area
407 on October 30, 2012;
- 408 c. with less than 10,000 square feet of gross floor area on October
409 30, 2012, where subsequent building permits cumulatively
410 allow increases in total gross floor area by less than 2,000
411 square feet; and
- 412 d. that includes a description and boundary survey drawing of the
413 property and proposed structure at a 1-inch-equals-50-foot scale
414 or another appropriate scale as determined by the Director that
415 demonstrates that the additional floor area will not extend into
416 any adopted master plan road right-of-way.

417 [[8]]7. *Certain commercial properties adjoining State highways in Rural*
418 *Village Overlay zones. An addition, reconstruction, or replacement of*
419 *a building on commercially zoned property:*

- 420 a. adjoining a State highway;
- 421 b. located in the Rural Village Overlay zone;

- 422 c. with less than 10,000 square feet of existing gross floor area
423 where later building permits cumulatively allow net increases in
424 total gross floor area of less than 2,000 square feet;
- 425 d. that includes a description and boundary survey drawing of the
426 property and proposed structure on a 1-inch-equals-50-foot
427 scale or another appropriate scale, as determined by the
428 Director, showing that the additional floor area will not extend
429 into any adopted master plan road right-of-way; and
- 430 e. that is submitted within one year after demolition or destruction
431 of the previous building was substantially completed.
- 432 8. *Certain non-residential properties. An unplatted parcel or a part of a*
433 *previously platted lot used for reconstruction of a non-residential*
434 *structure involuntarily demolished by force of nature if the floor area,*
435 *height, and footprint of the new replacement structure are not*
436 *increased.*

437 **Section 3.4. Approving Authority**

438 The Board administers this Chapter.

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

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

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

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

- 445 1. Except for an administrative or minor subdivision under Divisions
446 50.6 and 50.7, the subdivider must submit a complete preliminary
447 plan application form and payment of the required fee.
- 448 2. The plat of all or part of an approved subdivision plan must be
449 submitted with required supporting data and documents, a completed
450 application form, and payment of the required fee.

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

456 C. Properties with a pending water or sewer category change request. The
457 Director may reject a subdivision plan application for a property undergoing
458 review by the Council for a water or sewer category change request, and
459 require Council action to approve the request before a preliminary plan
460 application is accepted.

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

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

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

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

476 b. no later than 12 months from the date the Board approves the
477 public hearing draft master plan or master plan amendment,
478 unless there is a determination by the Board that the subdivision
479 plan application presents a substantial conflict with the
480 proposed public hearing draft master plan or master plan
481 amendment, in which case the Board may defer a subdivision

482 plan application for a maximum of 18 months from the date the
483 Board approves the public hearing draft master plan or master
484 plan amendment, but in no event beyond the period in
485 Subsection [(a)] a.

486 **Article II. Subdivision Plans**

487 **Division 50.4. Preliminary Plan**

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

493 **Section 4.1. Filing and Specifications**

494 **A. Application and fee.**

495 1. The subdivider must file the preliminary plan with the Board, together
496 with the completed application form, supporting information, and
497 payment of the required fee.

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

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

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

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

510 2. title block information;

- 511 3. certificate of ~~[[registered professional]] an engineer ~~[[and]] or licensed~~~~
512 land surveyor to affirm the accuracy of boundary lines, topographic
513 data, and other engineering or survey data, and to certify that the
514 subdivision plans and supporting documents were prepared in a
515 manner that satisfies all submission requirements and applicable
516 agency standards, policies, and procedures;
- 517 4. locations and names of abutting and confronting subdivisions with lot,
518 block, and record plat number of subdivided land, and deed references
519 for unplatted land;
- 520 5. existing scenic easements, scenic vistas designated by the Rustic
521 Roads Plan, or designated historic resources;
- 522 6. vicinity location map; and
- 523 7. graphic representation of the proposed subdivision, including:
- 524 a. bearings referenced to the Maryland Coordinate System, except
525 that an application filed to correct an approved preliminary plan
526 may be referenced to the plat meridian used on the original
527 approved preliminary plan or the record plat;
- 528 b. lot and block layout;
- 529 c. all roads labeled as public or private with construction details.
530 The subdivider must show the applicable ~~[[Chapter 49]] Road~~
531 Design and Construction Code design standards or typical
532 sections for the proposed roads and must list any proposed
533 modifications;
- 534 d. location of existing and proposed utilities;
- 535 e. existing topography with contour intervals of 5 feet or less;
- 536 f. location and width of existing and proposed pedestrian and
537 bicycle facilities, including sidewalks, shared-use paths and on-
538 road bicycle lanes and connections to existing off-site facilities;
- 539 g. sites for public uses and open spaces;

- 540 h. location, type, and width of all existing and proposed rights-of-
- 541 way and easements, including roads, slopes, paths, utilities, on-
- 542 and off-site storm drainage, and other improvements;

- 543 i. the proposed use of all lots on the preliminary plan and the
- 544 scaled dimensions and approximate area of each use;

- 545 j. lines showing the limits of each zone, if the property is located
- 546 in more than one zone; and

- 547 k. all existing topography, structures, and paving [[within 100 feet
- 548 of]] on adjoining properties within 100 feet.

549 C. Supporting information.

- 550 1. An approved Natural Resources Inventory/Forest Stand Delineation.

- 551 2. A preliminary forest conservation plan or forest conservation
- 552 exemption.

- 553 3. Verification from the County and other applicable agencies showing
- 554 payment of any required fees in connection with the County’s review
- 555 process.

- 556 4. Concept road grade and profile. [[A]] For a public road, an
- 557 [[registered]] engineer or [[registered professional]] a licensed land
- 558 surveyor must prepare conceptual road grade and profile plans
- 559 [[according to]] under the design criteria of [[Chapter 49]] the Road
- 560 Design and Construction Code and indicate the percentage of tangent
- 561 grades, lengths of crest and sag, vertical curves and elevations, and
- 562 elevations of all intersecting roads. The plan must indicate the
- 563 direction of water flow. Where the topography makes the
- 564 determination of the adequacy of the road grades difficult, the
- 565 Director may require additional supporting information.

- 566 5. Storm drainage capacity and impact analysis. The concept road grade
- 567 plan must be supported by a preliminary storm drain study prepared
- 568 under the [[County’s storm drain specifications]] drainage design

569 criteria of the transportation or permitting agency with jurisdiction
570 over the road.

571 6. Sight distance evaluation for all proposed driveways and proposed
572 road intersections prepared under the criteria of the applicable State or
573 County transportation agency.

574 7. Hydraulic Planning Analysis. For lots located in areas where the
575 subdivider proposes connection to public water and sewer facilities,
576 the subdivider must submit verification from WSSC that the
577 subdivider has applied for a Hydraulic Planning Analysis.

578 ~~[[7]]~~8. Wells and septic systems. For lots located in areas where the
579 subdivider proposes the installation of individual wells and septic
580 systems, the preliminary plan must also show:

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

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

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

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

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

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

593 ~~[[8]]~~9. Phasing schedule.

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

- 596 b. Where the subdivider proposes a phased project that will
597 cumulatively exceed the minimum validity periods under
598 Sections 4.2.G.2.a and 4.3.J.5.a, the applicant must submit a
599 recording and construction phasing schedule as part of the
600 preliminary plan for approval by the Board. The schedule must
601 indicate the portions of the preliminary plan for which record
602 plats and building permits will be obtained during each of the
603 proposed phases, up to the expiration of the maximum adequate
604 public facilities validity period under Section 4.3.J.5.a.
- 605 c. When applicable, the phasing schedule must identify the timing
606 for the completion of construction and conveyance to unit
607 owners of such things as common open areas and recreational
608 facilities. In addition, the phasing schedule must indicate the
609 timing for the provision of moderately priced dwelling units,
610 and infrastructure improvements associated with each phase.
611 The subdivider must design such a phasing schedule to
612 minimize dependence on features (other than community-wide
613 facilities) that will be provided in subsequent phases and have
614 minimal impact during construction on phases already built and
615 occupied.
- 616 d. If a phasing plan for a preliminary plan included land or
617 building space that the County accepted for an arts or
618 entertainment use under Section 59-C-6.2356 of the zoning
619 ordinance in effect on October 29, 2014, approval of a site plan
620 under Section 59-7.3.4 for the phase containing that land or
621 building space validates all remaining phases of the preliminary
622 plan and the project plan for the purpose of Section 59-D-2.7(b)
623 of the zoning ordinance in effect on October 29, 2014.
- 624 [[9]]10. Transfer of development rights.
- 625 a. A preliminary plan for a property located in a receiving area
626 that proposes to increase the density of the property by using
627 transferred development rights must indicate:

- 628 i. the number of lots permitted for the tract by zoning
- 629 without the use of density increases as allowed by
- 630 Transferable Development Rights (TDR) or the
- 631 Moderately Priced Dwelling Unit (MPDU) programs;

- 632 ii. the number of development rights to be conveyed to the
- 633 receiving property;

- 634 iii. the number of Moderately Priced Dwelling Units to be
- 635 provided as required by Chapter 25A;

- 636 iv. the total density, in dwelling units, of the proposed
- 637 subdivision; and

- 638 v. the density recommended by the adopted master plan.

- 639 b. A preliminary plan that uses transferable development rights in
- 640 the Rural Residential and Residential zones must include at
- 641 least two-thirds of the number of development rights permitted
- 642 to be transferred to the property under the appropriate master
- 643 plan. However, the Board may reduce the two-thirds
- 644 requirement if it finds the reduction is more appropriate for
- 645 environmental or compatibility reasons.

- 646 ~~[[10]]~~11. Draft Traffic Mitigation Agreement. A preliminary plan
- 647 application for property located in a Transportation Management
- 648 District (TMD), designated under Chapter 42A, Article II, must
- 649 contain a draft Traffic Mitigation Agreement (TMAG) prepared by the
- 650 applicant that meets the requirements of that Article.

- 651 12. Encumbrance. The applicant must identify the existence of and the
- 652 location of any encumbrance that would impact the proposed
- 653 development, including encumbrances on existing or proposed right
- 654 of way.

- 655 D. Application processing.

- 656 1. The applicant must submit an initial application to the Director. The
- 657 Director must review the application for completeness within 10 days

658 after receipt. An application is incomplete if any required element is
659 missing or is facially defective, e.g., a drawing that is not to scale. An
660 application filed without all required fees is also incomplete. The
661 assessment of completeness must not address the merits of the
662 application.

663 2. The applicant must submit any required revisions to the Director. The
664 Director must review the revised application for completeness within
665 10 days after receipt.

666 3. After the Director verifies that the application is complete, or if the
667 review is not completed within 10 days after receipt, the Director will
668 accept the application and establish a hearing date under Section
669 4.1.E.

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

672 E. Hearing date. The Board must schedule a public hearing to begin within 120
673 days after the date the Director accepts an application. The Director may
674 postpone the public hearing by up to 30 days once without Board approval.
675 The Director or applicant may request one or more extensions beyond the
676 original 30 days with Board approval. The Board must notice the public
677 hearing and indicate the new hearing date on the Board’s agenda. An
678 application that was filed before {effective date of legislation} is not subject
679 to this subsection.

680 **Section 4.2. Approval Procedure**

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

- 685 1. WSSC, for water and sewer service;
686 2. the [[County]] Department of Transportation, for roads, streets,
687 intersection locations, site access, sight distances, traffic calming,

688 paths, pedestrian and bicycle facilities (including bike share), parking,
689 transit facilities, transportation demand management elements, and
690 storm drainage within County-maintained rights-of-way and
691 easements;

692 3. the [[County]] Department of Permitting Services, for stormwater
693 management, floodplain delineation, sanitation, wells, and septic
694 systems;

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

697 5. Montgomery County Fire and Rescue Service, for requirements for
698 adequate fire protection and access;

699 6. the State Highway Administration, for right-of-way requirements and
700 access on state roads;

701 7. any appropriate agency of the federal government;

702 8. any municipality that has filed a request with the Board for an
703 opportunity to review subdivision or resubdivision plans for property
704 located in that municipality;

705 9. Montgomery County Public Schools, for school site planning;

706 10. any other Montgomery County Executive agency, for the adequacy of
707 public facilities and services and any proposed public use; and

708 11. local utility providers.

709 **B. Review and recommendation.**

710 1. Timing of review.

711 a. [[Reviewing]] The Director must allow reviewing State and
712 County agencies and utilities [[must get]] a minimum of 14
713 days to review plans [[and]]. Those agencies and utilities must
714 submit initial comments to the Director before the Development
715 Review Committee meeting when one is scheduled.

- 716 b. The applicant must submit revised drawings at least 65 days
717 before the date of the hearing to address all comments received.
718 The Director may extend the deadline if the applicant submits a
719 written request within 15 days after the revised drawings were
720 due. If no written request is received or if the requested
721 extension is not granted, the application is deemed withdrawn.
- 722 c. State and County agencies and utilities must each submit their
723 final recommendations on the application at least 45 days
724 before the date of the Board hearing or must request an
725 extension.
- 726 2. Approvals from public agencies. The following agency approvals are
727 [[needed]] required before the Board approves the preliminary plan:
- 728 a. Design of County-maintained roads. The [[County]]
729 Department of Transportation must approve in preliminary
730 form the typical section, concept road profile, intersection and
731 site access locations, sight distances, utility location, and storm
732 drain adequacy for improvements along County-maintained
733 roads and paths within its jurisdiction;
- 734 b. Wells and septic systems. The [[County]] Department of
735 Permitting Services must approve lots with individual wells or
736 septic systems, the well, and septic plan. Proposed wells and
737 septic systems within existing rights-of-way or easements are
738 prohibited;
- 739 c. Stormwater management. The [[County]] Department of
740 Permitting Services must approve a stormwater management
741 concept and floodplain delineation, if required under Chapter
742 19;
- 743 d. Water Quality Plan. If a water quality plan is required under
744 Chapter 19, the Board must not approve a preliminary plan or
745 any extension until all requirements of Chapter 19 for plan
746 approval are satisfied. The Board must make the compliance

747 with a required water quality plan, including any plan reviewed
 748 on a preliminary or final basis, a condition of any approved
 749 preliminary plan; and

750 e. Water and sewer service. If water and sewer are proposed to
 751 serve the property, the Board may approve a preliminary plan
 752 only if WSSC [[agrees with]] has reviewed the proposed water
 753 and sewer service layout.

754 3. Director. The Director must publish a report and recommendation at
 755 least 10 days before the Board hearing.

756 C. Planning Board Action.

757 1. The Director must present every preliminary plan to the Board for its
 758 review and action. The Board must take one of the following actions
 759 or defer action to obtain more information:

760 a. approve, if the plan conforms to the purposes and other
 761 requirements of this Chapter;

762 b. approve, with any conditions or modifications necessary to
 763 bring the proposed development into compliance with all
 764 applicable requirements; or

765 c. deny, if the plan is contrary to the purposes and other
 766 requirements of this Chapter.

767 2. All necessary improvements to support the development must be
 768 completed or assured, as specified in Section 10.2.

769 3. Where a site plan is required, the approval of the preliminary plan
 770 must not allow clearing or grading to occur before approval of the site
 771 plan, unless otherwise specified by the Board.

772 4. The Board must approve a resolution containing findings supporting
 773 its decision. Following approval of a preliminary plan by the Board,
 774 [[no agency may require a]] any substantial change in the plan
 775 [[unless]] may only be required by another agency in order to comply

776 with a law or regulation. Any such change must be allowed by the
777 Board's conditions of approval or a plan amendment under Section
778 4.2.F.

779 D. Required Findings. To approve a preliminary plan, the Board must find that:

780 1. [[the preliminary plan substantially conforms to the master plan;]] the
781 layout of the subdivision, including size, width, shape, orientation and
782 density of lots, and location and design of roads is appropriate for the
783 subdivision given its location and the type of development or use
784 contemplated and the applicable requirements of Chapter 59;

785 2. [[public facilities will be adequate to support and service the area of
786 the subdivision]] the preliminary plan substantially conforms to the
787 master plan;

788 3. [[the layout of the subdivision, including size, width, shape,
789 orientation and density of lots, and location and design of roads are
790 appropriate for the subdivision given its location and the type of
791 development or use contemplated, considering the recommendations
792 included in the master plan and the applicable requirements of
793 Chapter 59;]] public facilities will be adequate to support and service
794 the area of the subdivision;

795 4. all Forest Conservation Law, Chapter 22A requirements are satisfied;

796 5. all stormwater management, water quality plan, and floodplain
797 requirements of Chapter 19 are satisfied; and

798 6. any other applicable provision specific to the property and necessary
799 for approval of the subdivision is satisfied.

800 E. Plan Certification. Every preliminary plan approved by the Board must be
801 certified by the Director to confirm that the plan reflects the Board's
802 approval. Any modification of the plan conditioned by the Board's approval
803 must be included in the plan before receiving the approval stamp. The
804 approved plan must be filed in the records of the Board.

805 F. Amendments.

806 1. A major amendment to an approved preliminary plan must follow the
807 same procedures, meet the same criteria, and satisfy the same
808 requirements as the original preliminary plan.

809 a. A major amendment includes any requests to change density
810 that results in greater adequate public facility impact; or make
811 major changes to lot configuration or location, or right-of-way
812 width or alignment; or make a change to any condition of
813 approval, except a change to validity period phasing as
814 permitted in Section 4.2.F.2.

815 2. A minor amendment to an approved preliminary plan must follow the
816 same procedures, meet the same criteria, and satisfy the same
817 requirements as the original preliminary plan, except as modified
818 under Section 4.2.F.2.b.

819 a. A minor amendment to an approved preliminary plan includes
820 any change that does not change density in a manner that results
821 in greater adequate public facility impact; make major changes
822 to lot configuration or location, or right-of-way width or
823 alignment; or alter the intent, objectives, or requirements of the
824 Board in approving the preliminary plan.

825 b. The Board may approve a minor preliminary plan amendment
826 without a public hearing if the Director publishes a report and
827 recommendation on the amendment a minimum of 10 days
828 before the Board meeting. The Director may also approve a
829 minor amendment to change validity period phasing as
830 permitted in Section 4.2.H.1.b.

831 G. *Plan Validity.*

832 1. *Initiation date.* The plan validity period for preliminary plans starts on
833 the later of:

834 a. 30 days from the date of mailing indicated on the written
835 resolution; or

836 b. if an administrative appeal is timely noted by any party
837 authorized to file an appeal, the date upon which the court
838 having final jurisdiction acts, including the running of any
839 further applicable appeal periods.

840 2. *Duration.*

841 a. *Single-phase project.*

842 i. *A preliminary plan approved after March 31, 2009 and*
843 *before April 1, 2017 remains valid for 60 months after its*
844 *initiation date.*

845 ii. *A preliminary plan approved after March 31, 2017*
846 *remains valid for 36 months after its initiation date.*

847 b. *Multi-phase project.*

848 i. *An approved preliminary plan for a multi-phase project*
849 *remains valid for the period of time allowed in the*
850 *phasing schedule approved by the Board.*

851 ii. *The applicant must propose a phasing schedule and the*
852 *duration of the validity period for each phase as part of*
853 *an application for preliminary plan approval or*
854 *amendment. The Board must assign each phase a validity*
855 *period after considering the size, type, and location of the*
856 *project.*

857 iii. *The time allocated to any phase must be 60 months or*
858 *less after the initiation date for that particular phase for*
859 *any preliminary plan approved after March 31, 2009, but*
860 *before April 1, 2017, and 36 months after the initiation*
861 *date for that particular phase for any preliminary plan*
862 *approved after March 31, 2017.*

863 iv. *The cumulative validity period of all phases must be*
864 *shorter than or equal to the APFO validity period which*
865 *begins on the initiation date of the first preliminary plan*

866 approval, including any extension granted under Section
867 4.3.J.7.

868 v. If the recordation of an approved preliminary plan occurs
869 within 5 years of approval for a multi-phase project that
870 includes land or building space to be transferred to the
871 County for an arts or entertainment use under Section 59-
872 C-6.2356 of the zoning ordinance in effect on October
873 29, 2014, all phases of the preliminary plan are validated.
874 After approval, an amendment or modification to the
875 phasing plan or the preliminary plan will not affect the
876 validations if the requirements of this Subsection have
877 otherwise been met.

878 3. Validation. A preliminary plan or phase of a preliminary plan is
879 validated when the applicant has secured all government approvals
880 necessary to record a plat, and a plat for all property shown on the
881 plan or in that phase has been recorded in the County Land Records.

882 4. Effect of a preliminary plan amendment on validity period. For any
883 action taken by the Board to amend a previously approved preliminary
884 plan, the Board will determine, on a case-by-case basis, whether it
885 should extend the validity period and, if so, for what duration. In
886 making the determination, the Board must consider the nature and
887 scope of the requested amendment.

888 H. Extension of plan validity period.

889 1. Extension request.

890 a. Only the Board is authorized to extend the validity period. The
891 [[Board]] applicant must [[receive]] submit a request to extend
892 the validity period of an approved preliminary plan in writing
893 before the previously established validity period expires. [[Only
894 the Board is authorized to extend the validity period.]]

895 b. The Director may approve a request to amend the validity
896 period phasing schedule of an approved preliminary plan if the

897 length of the total validity period of the preliminary plan is not
898 extended. The [[Director]] applicant must [[receive]] submit the
899 request in writing before the previously established validity
900 period of the phase expires.

901 c. The written request must detail all reasons to support the
902 extension request and include the anticipated date by which the
903 plan will be validated. The applicant must certify that the
904 requested extension is the minimum additional time required to
905 record all plats for the preliminary plan.

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

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

910 b. Where a preliminary plan has been allowed to expire due to the
911 applicant's failure to file a timely request for extension, the
912 Board may reinstate the preliminary plan and establish a new
913 validity period if practical difficulty or undue hardship is
914 demonstrated by the applicant. The Board may require the
915 applicant to get a new APFO review and approval by the Board
916 as a prerequisite or condition of its action to extend an expired
917 plan.

918 3. Grounds for extension.

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

921 i. delays by the government or some other party after the
922 plan approval have prevented the applicant from meeting
923 terms or conditions of the plan approval and validating
924 the plan, provided such delays are not caused by the
925 applicant; or

926 ii. the occurrence of significant, unusual and unanticipated
927 events, beyond the applicant's control and not caused by
928 the applicant, have substantially impaired the applicant's
929 ability to validate the plan, and exceptional or undue
930 hardship (as evidenced, in part, by the efforts undertaken
931 by the applicant to implement the terms and conditions of
932 the plan approval in order to validate the plan) would
933 result to the applicant if the plan were not extended.

934 b. The applicant bears the burden of establishing the grounds in
935 support of the requested extension.

936 4. Planning Board considerations for extension.

937 a. The Board may condition the grant of an extension on a
938 requirement that the applicant revise the plan to conform with
939 changes to the requirements of this Chapter since the plan was
940 approved.

941 b. The Board may deny the extension request if it finds that the
942 project, as approved and conditioned, is no longer viable. The
943 Board must consider whether the project is capable of being
944 financed, constructed, and marketed within a reasonable time
945 frame. The Applicant must demonstrate the project's viability
946 upon request by the Board or the Director.

947 5. Planning Board action.

948 a. After a duly noticed public hearing [[for which notice was duly
949 given]], the Board must determine whether it should grant a
950 request for an extension. The requirements for noticing and
951 conducting a public hearing must follow the requirements for a
952 preliminary plan.

953 b. If voting to approve an extension, the Board must only grant the
954 minimum time it deems necessary for the applicant to validate
955 the plan.

- 956 c. The Board may only grant an extension to a preliminary plan
957 within the plan's APFO validity period, unless a further
958 extension is allowed by law.
- 959 d. An applicant may request, and the Board may approve, more
960 than one extension.
- 961 e. Once a phasing schedule is approved by the Board as part of a
962 preliminary plan approval, the Board must treat any revision or
963 alteration to the schedule other than an amendment approved
964 under Section 4.3.J.7 as a minor amendment to the preliminary
965 plan. Board approval of a revised phasing schedule is required
966 to extend the total length of the validity period.
- 967 I. Effect of failure to timely validate plan or secure an extension.
- 968 1. If a preliminary plan is not timely validated in whole or in part before
969 the expiration of the validity period, any remaining portion of the plan
970 [[expires]] is void. For multi-phased plans, the failure on the part of an
971 applicant to timely validate a phase, in whole or in part, voids the
972 balance of the preliminary plan approval for that phase and all
973 subsequent non-validated phases.
- 974 2. In those instances where an applicant has timely validated only a
975 portion of a plan and no extension is granted, the applicant seeking to
976 develop only that portion of the project remains responsible for fully
977 complying with all of the terms, conditions, and other requirements
978 associated with the portion of the plan approval that has been
979 implemented.
- 980 3. If a preliminary plan or a phase of the plan is not timely validated, any
981 APFO determination made by the Board associated with the
982 [[expired]] void portion of the preliminary plan is also [[expires]]
983 void. In such event, the applicant loses any further rights to claim any
984 vehicle trips associated with the expired APFO approval. The filing of
985 a new preliminary plan application does not provide the basis for
986 reclaiming vehicle trips lost by the termination of the APFO approval.

987 4. A preliminary plan approval conditionally linked to a sketch plan or
988 project plan approval under Chapter 59 expires if the sketch plan or
989 project plan expires.

990 J. *Revocation of approval.*

991 1. The Board may revoke approval of a preliminary plan by resolution at
992 any time before the Board approves the final plat covering the
993 proposed preliminary plan.

994 2. To revoke a preliminary plan approval, except in response to a
995 violation of this Chapter, the Board must find that completing a
996 portion of the plan has been rendered impractical by reason of an
997 amendment to the General Plan, or by a conflict with a proposed
998 public improvement or other conditions or circumstances not
999 previously considered by the Board that make the plan contrary to
1000 public health, safety, or welfare.

1001 3. The Board must give a subdivider notice and an opportunity to be
1002 heard by the Board before taking any action to revoke approval of a
1003 preliminary plan [[by sending]]. Notice to the owner and subdivider
1004 [[a notice]] must be sent by certified mail at least 30 days before the
1005 date of the proposed action [[and]]giving the time and place of the
1006 hearing. The notice must state the reasons for the proposed revocation.

1007 **Section 4.3. Technical Review**

1008 In making the findings under Section 4.2.D, the Board must [[review]] consider the
1009 following [[technical]] aspects of the application.

1010 A. *Relation to master plan.*

1011 1. [[In determining whether to approve a preliminary plan, the Board
1012 must consider the applicable master plan or Urban Renewal Plan.]] A
1013 preliminary plan must substantially conform to the applicable master
1014 plan or Urban Renewal Plan, including maps and text. However, if a
1015 site plan is not required under Chapter 59, Article 59-7.3.4, the Board

1016 may find that events have occurred to render the relevant master plan
1017 or Urban Renewal Plan recommendation no longer appropriate.

1018 2. A preliminary plan that requires a site plan approval under Chapter
1019 59, Article 59-7.3.4 may exceed any dwelling unit per acre or floor
1020 area ratio (FAR) limit recommended in a master plan, as provided in
1021 Chapter 59[[, to permit construction of all MPDUs under Chapter
1022 25A, or workforce housing units required under Chapter 59 or
1023 Chapter 29A]].

1024 B. Block design.

1025 1. Residential blocks. The Board must approve the length, width, and
1026 shape of any residential block as follows:

1027 a. Length. The length of a residential block must be compatible
1028 with existing development patterns and the land use goals for
1029 the area of the subdivision. The maximum length of a block is
1030 1,600 feet.

1031 b. Width. Blocks must be designed with sufficient width to
1032 provide 2 tiers of lots. The Board may approve exceptions to
1033 block width design for blocks adjacent to heavy traffic ways,
1034 railroads, streams, drainage courses, or for land uses where it is
1035 appropriate to establish blocks with 1 tier of lots.

1036 c. Pedestrian paths. The Board may require paths for pedestrian
1037 access to schools, playgrounds, parks, and other public areas
1038 and through long blocks.

1039 d. Multi-unit or apartment blocks. The Board must review and
1040 approve the design and arrangement of access roads within a
1041 subdivision for multi-unit or apartment dwellings, together with
1042 the required parking facilities and pedestrian walks, to
1043 determine that resulting blocks are a suitable length and width
1044 for pedestrian and vehicle circulation.

1045 2. Nonresidential blocks. The Board must determine if the blocks
1046 designed for business or industry are a suitable length and width,
1047 including adequate provision for pedestrians, parking, deliveries, and
1048 truck maneuvering.

1049 C. Lot design.

1050 1. General requirements.

1051 a. Lot dimensions. ~~[[The Board must find that lot]]~~ Lot size,
1052 width, shape, and orientation ~~[[will]]~~ must be appropriate for
1053 the location of the subdivision and for the type of development
1054 or use contemplated, considering the recommendations of the
1055 master plan and the applicable requirements of Chapter 59. The
1056 dimensions of a lot must be able to accommodate any proposed
1057 building and other infrastructure deemed necessary to serve the
1058 lot, including but not limited to any accessory structure,
1059 stormwater management, parking, access drive, and off-street
1060 service.

1061 b. Lots to abut on a public or private road. Except as specified
1062 below, every lot must abut on a public or private road. A public
1063 road must be dedicated or donated to public use or have
1064 acquired the status of a public road under Chapter 49. A private
1065 road must be ~~[[created by]]~~ shown on a record plat ~~[[and be~~
1066 made available for public use through an access easement]].

1067 i. The Board may approve a maximum of 2 lots that do not
1068 abut a public or private road if the lots will be served by a
1069 private driveway that serves no other lots without
1070 frontage.

1071 ii. The ~~[[Board must find that]]~~ access to lots with no road
1072 frontage ~~[[is]]~~ must be adequate to serve the lots for
1073 emergency vehicles and for installation of public utilities.
1074 In addition, the ~~[[Board must find that the]]~~ lots ~~[[are]]~~
1075 must be accessible for other public services and ~~[[are]]~~

1076 not detrimental to future [[subdivision]] development of
1077 adjacent lands.

1078 c. Side lines. Side lines of interior lots must to the extent possible
1079 be aligned perpendicular to the road line or radial to a curved
1080 road line.

1081 d. Through lots. The Board must not approve through lots, except
1082 where unusual topography, orientation, or the size of the
1083 subdivision permit no other feasible way to subdivide.

1084 e. Alley or pedestrian paths for residential lots. If a mid-block
1085 alley or pedestrian right-of-way is provided in a residential
1086 subdivision, the subdivider must increase the lot widths
1087 adjoining the alley or right-of-way to provide for a parallel side
1088 building restriction line 15 feet from the alley or right-of-way.

1089 D. Public sites and adequate open spaces. A preliminary plan must provide for
1090 required public sites and adequate open space areas.

1091 1. Master planned sites. When a tract being subdivided includes a
1092 proposed site for a park, playground, school, or other public use
1093 recommended in the applicable master plan, and that use is deemed
1094 necessary by the Board and applicable public agency, the preliminary
1095 plan must show the site for the use for dedication or acquisition and
1096 subsequent record plat. Land that is not dedicated may be acquired by
1097 donation, purchase, or condemnation, or reserved under Subsection 5.

1098 2. Local recreation. The Board must require platting and dedication to
1099 public use of adequate spaces for recreation wherever it is reasonable
1100 to do so, considering the recommendations in the applicable master
1101 plan, the circumstances existing where a subdivision is located, and
1102 the size and character of the subdivision. The subdivider may be
1103 required to provide what is determined by the Board to be an area
1104 relevant to the recreational needs of the present and future inhabitants
1105 of the subdivision. Whenever the necessary recreational area is larger

1106 than the subdivider is required to dedicate, the balance of the needed
1107 area must be reserved for acquisition under Subsection 5.

1108 3. *Area for public roads and associated utilities and storm drainage.*

1109 a. *Roads.* In its consideration of the approval of a subdivision, the
1110 Board must require dedication and platting of adequate area to
1111 provide public roads and other public transportation facilities.
1112 These must be coordinated with other existing, planned, or
1113 platted roads, other features in the district, or with any road plan
1114 adopted or approved as a part of the General Plan.

1115 b. *Rights-of-way and easements other than roads.* The Board may
1116 require dedication to public use of rights-of-way or platting of
1117 easements necessary for public uses, such as pedestrian paths,
1118 equestrian trails, [[bicycle infrastructure (including, but not
1119 limited to, bikeways and bike-share facilities)]] bicycle
1120 facilities, water and sanitary sewer, and stormwater
1121 management and storm drainage facilities. The Board must
1122 approve the extent, location, and width of each pedestrian path,
1123 equestrian trail, and bikeway right-of-way after considering the
1124 master plan. The extent and width of water and sanitary sewer
1125 rights-of-way must be determined by the Washington Suburban
1126 Sanitary Commission in its jurisdiction. The extent and width
1127 of drainage rights-of-way must be determined by the [[County]]
1128 Department of Permitting Services after receipt of drainage
1129 studies prepared by the applicant's engineer.

1130 4. *Areas not suitable for public use.*

1131 a. *When a preliminary plan includes a proposed dedication of land*
1132 to public use, the Board must determine if the land is suitable
1133 for the intended public use. In its evaluation, the Board must
1134 consider, among other relevant factors, any criteria for the
1135 intended use adopted by the receiving agency and the agency's
1136 recommendations, the natural features of the site, and the extent
1137 of site preparation work. Site preparation may include

1138 excavation of rock, excessive grading, grading of steep slopes,
 1139 remedial environmental measures, and similar work required to
 1140 prepare the site for the public use. In evaluating the natural
 1141 features of a site, the Board may require the applicant to
 1142 perform soil borings or to provide other detailed topographical
 1143 or subsurface information not otherwise submitted under
 1144 Section 4.1.B. The applicant's engineer must certify the
 1145 information provided to the Board. Factors relevant to a
 1146 determination of the magnitude of site preparation work include
 1147 estimated costs, acreage, agency experience with similar sites
 1148 and construction industry practices.

1149 b. Based on the analysis, the Board may refuse to approve the
 1150 dedication and:

1151 i. require the rearrangement of lots in the subdivision to
 1152 provide for a suitable site;

1153 ii. permit the applicant to pay for additional site preparation
 1154 that makes the site suitable for the public use; or

1155 iii. with the concurrence of the receiving agency, permit the
 1156 applicant to provide an alternative location offsite.

1157 5. Reservation.

1158 a. Procedure. When the Board determines that a tract being
 1159 subdivided includes land that is necessary for public use but
 1160 will not immediately be acquired by donation, dedication,
 1161 purchase, or condemnation when the plat is recorded, the Board
 1162 must determine the need to reserve the land. The Board may
 1163 require a reservation for a period of time less than 3 years [[or
 1164 less]] for road rights-of-way, public school and building sites,
 1165 parks, playgrounds, recreational areas, or other public purposes.

1166 i. Referral to agency concerned with acquisition. If a
 1167 reservation of land appears to be in the public interest,
 1168 the Board must refer the plan to the public agency

1169 concerned with acquisition for consideration and report.
1170 The Board may propose alternate areas for such
1171 reservation and must allow such public agency 30 days
1172 for reply. The agency's recommendation, if affirmative,
1173 must include a map showing the boundaries and area of
1174 land to be reserved and an estimate of the time required
1175 to complete the acquisition.

1176 ii. Resolution. The Board must approve a declaration of
1177 public reservation by resolution, stating the period during
1178 which the reservation is effective. Notice of the same
1179 must be carried once each in two newspapers of general
1180 circulation in the County and a plat must be recorded in
1181 the land records of the County showing in detail the land
1182 so reserved. Certified copies of the resolution must be
1183 sent to the property owner and to the agency concerned
1184 with acquisition.

1185 iii. Taxes. The Board must advise taxing and assessing
1186 bodies of all public reservations, and such public
1187 reservations must be exempt from all State, County, and
1188 local taxes during the reservation period.

1189 iv. Preservation. During the reservation period, any use of
1190 the reserved land that involves constructing buildings or
1191 structures, removing trees, or clearing and grading must
1192 be approved by the Board. A person must not remove or
1193 destroy trees, topsoil, or cover; grade; or build a storm
1194 drainage structure that discharges water on the reserved
1195 land, except according to a storm drainage plan approved
1196 by the [[County]] Department of Permitting Services or
1197 the [[County]] Department of Transportation. Nothing in
1198 this Section relieves the landowner from the
1199 responsibility to maintain the property according to law
1200 or prohibits the owner from removing weeds or trash

- 1201 from reserved land or from selling the reserved land after
1202 approval of the Board.
- 1203 v. Posting. The Board must post properties in reservation
1204 with an appropriate sign, warning against violation of the
1205 preservation provisions and the penalties for a violation.
- 1206 b. Expiration of plan. The expiration or revocation of approval of
1207 a preliminary plan must not affect a reservation if, before the
1208 expiration date, a reservation plat has been recorded in the Land
1209 Records.
- 1210 E. Roads.
- 1211 1. Plan requirements.
- 1212 a. Master plan roads. Preliminary plans must include roads shown
1213 on any adopted Master Plan of Highways, in satisfaction of the
1214 Road Design and Construction Code. Where applicable, an
1215 approved plan must include recommendations of the State
1216 Highway Administration for construction and access to State
1217 roads. Where private roads are specifically recommended by a
1218 master plan, the roads must be provided to the standards for
1219 private roads under this Section.
- 1220 b. Continuation of roads. The subdivision must provide for
1221 continuation of any existing roads (constructed or recorded)
1222 [[that satisfy]] in satisfaction of the Road Design and
1223 Construction Code, unless otherwise determined by the Board,
1224 considering the recommendations of other appropriate agencies.
- 1225 c. Future subdivisions. A tract in a preliminary plan application
1226 must be divided to not preclude future road openings and
1227 further logical subdivision of adjacent land.
- 1228 d. Alleys. The Board, in consultation with the appropriate
1229 transportation agency, may require alleys where they are
1230 necessary to provide access.

- 1231 e. Railroad crossings. A preliminary plan involving new or
1232 existing roads crossing railroad tracks must provide an adequate
1233 right-of-way, including approach right-of-way and slope
1234 easements, for construction of an underpass or overpass unless
1235 otherwise determined by the Board, considering the
1236 recommendations of other appropriate agencies.
- 1237 f. Residential roads paralleling railroads. A residential road
1238 paralleling a railroad must be located at least 160 feet from the
1239 track to provide lots with sufficient depth backing to the
1240 railroad right-of-way.
- 1241 g. Railroad tracks. Existing railroad tracks must not be included
1242 within the rights-of-way of roads, except for crossings or rail
1243 transit lines outside the paved traveled portion of the road.
- 1244 2. Design standards.
- 1245 a. Right-of-way. Area for a road on a subdivision plan must
1246 include the full width of all rights-of-way recommended for the
1247 applicable road classification in the adopted master plan and in
1248 the Road Design and Construction Code.
- 1249 i. The Board may approve a narrower than standard road
1250 right-of-way if it meets minimum fire access
1251 requirements and the Board finds that a narrower right-
1252 of-way is environmentally preferable, improves
1253 compatibility with adjoining properties, or allows better
1254 use of the tract under consideration.
- 1255 ii. In determining the width of a less than standard right-of-
1256 way, the Board must consider:
- 1257 (a) the recommendations of the [[County]]
1258 Department of Transportation or other applicable
1259 state or municipality transportation permitting
1260 agency;

- 1261 (b) the amount of traffic expected to use the proposed
- 1262 roads;
- 1263 (c) the maximum road right-of-way or improvement
- 1264 required for the proposed land use; and
- 1265 (d) the increased traffic, travel lane, and right-of-way
- 1266 requirements that would be created by maximum
- 1267 use and development of land using the road.

1268 [[b. *Slope easement.* When required for construction or road

1269 maintenance, the subdivision plan must establish an easement

1270 for a 2:1 slope along both sides of each road right-of-way for

1271 public use. The easement must be at the front setback line per

1272 zoning, or as determined by a site-specific slope study in

1273 coordination with the road grade approved under this Chapter.]]

1274 [[c]]b. *New roads, sidewalks, etc.* The subdivider must design and

1275 construct the roads, alleys, bicycle facilities, sidewalks, and

1276 pedestrian ways with drainage, street trees, and other integral

1277 facilities in each new subdivision [[as required by the Road

1278 Design and Construction Code or a municipality, whichever

1279 applies]] as required by the appropriate transportation or

1280 permitting agency.

1281 [[d. *Existing public roads.* In a preliminary plan or administrative

1282 subdivision plan application containing lots fronting on an

1283 existing State, County, or municipally maintained road, the

1284 subdivider must provide any additional required right-of-way

1285 dedication and reasonable improvement to the road in front of

1286 the subdivision, including sidewalks and bicycle facilities, as

1287 required by the approved Master Plan, Road Design and

1288 Construction Code or by a municipality, whichever applies.

1289 e. *Private roads.* Private roads must be built to the applicable

1290 structural standard, grade, and typical section based on the

1291 comparable functional classification in Chapter 49. Private

1292 roads must conform to the horizontal alignment requirements of
1293 this Chapter. The subdivider must have a registered engineer
1294 certify to the County Department of Permitting Services that
1295 each private road has been designed to meet the structural
1296 standards required by this Section. The subdivider must then
1297 certify to the County Department of Permitting Services that all
1298 construction complies with the design.]]

1299 [[f]]c. *Mid-block pedestrian right-of-way.* The minimum right-of-way
1300 must be 20 feet for a mid-block pedestrian right-of-way.

1301 [[g]]d. *Drainage [[right-of-way]] easement.* The minimum for an
1302 enclosed drainage [[right-of-way]] easement must be 20 feet,
1303 unless otherwise determined by the [[County]] Department of
1304 Permitting Services or other applicable public agency.

1305 [[h]]e. *Non-through roads.* The Board must not approve any road that
1306 does not connect to another road at its beginning and end,
1307 unless a determination is made that:

1308 i. a through road is infeasible due to a property's unusual
1309 shape, size, topography, environmentally sensitive areas,
1310 or the characteristics of abutting property;

1311 ii. the road provides access to no more than 75 [[lots]]
1312 dwelling units;

1313 iii. the road is properly terminated in a cul-de-sac or other
1314 turnaround; and

1315 iv. the road is less than 500 feet in length, measured along
1316 its centerline to the nearest through street, unless the
1317 Board determines that a longer length is necessary
1318 because of the unusual shape, size, topography, or
1319 environmentally sensitive areas of the subdivision.

1320 [[i]]f. *Intersection.*

- 1321 i. Roads must be laid out to intersect as nearly as possible
1322 at right angles. The Board must not approve a proposed
1323 intersection of new roads at an angle of less than 70
1324 degrees.
- 1325 ii. Proposed road intersections, excluding alleys and
1326 driveways, must be spaced as shown in the table below,
1327 as measured from the centerline of the intersections[[,
1328 except in an Urban Area as defined in Chapter 49]].
1329 When the Board finds that a greater or lesser spacing is
1330 appropriate, the Board may specify a greater or lesser
1331 spacing than otherwise required after considering the
1332 recommendation of the [[County Department of
1333 Transportation]] transportation agency responsible for
1334 maintaining the road.
- 1335

<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>

1336 *NOTE: Median breaks on divided roadways must be no closer than 600 feet.

1337 iii. Corner lots at an intersection must be truncated by
 1338 straight lines joining points 25 feet back from the
 1339 theoretical property line intersection in each quadrant.
 1340 When more or less width is needed for traffic safety and
 1341 operations, the Board may specify a greater or lesser
 1342 truncation than otherwise required. Any alley intersection
 1343 or abrupt change in alignment in a block must have the
 1344 corners truncated sufficiently for safe vehicular turning.

1345 [[j]]g. Horizontal alignment. In all public and private primary,
 1346 secondary and tertiary residential streets and culs-de-sac, the
 1347 alignment must be designed so that all deflections in horizontal
 1348 alignment are accomplished through segments of circular
 1349 curves properly incorporated into the design. The minimum
 1350 permitted centerline radii must be:

- 1351 i. Primary roads 300 feet
- 1352 ii. Secondary roads 150 feet
- 1353 iii. Tertiary roads 100 feet

1354 The Board must specify greater radii when safety requires. A tangent
 1355 at least 100 feet long must be used between two reverse curves, except
 1356 in a secondary or tertiary residential street. The Board may specify a

1357 lesser radius when the Department of Transportation has previously
1358 issued a design exception for a similar design.

1359 3. *Additional requirements for public roads.*

1360 a. *Slope easement.* When required for construction or road
1361 maintenance, the subdivision plan must establish an easement
1362 for a 2:1 slope along both sides of each public road right-of-
1363 way for public use. If a Public Utility Easement (PUE) is
1364 required along a road, that PUE is to be graded when the road is
1365 constructed on a side slope not to exceed 4:1; the 2:1 maximum
1366 side slope may commence outside the limit of the PUE. The
1367 Slope Easement must provide adequate room for proper
1368 transition grading at the toe or top of slope. The easement must
1369 be at the front setback line per zoning, or as determined by a
1370 site-specific slope study in coordination with the road grade
1371 approved under this Chapter. A retaining wall instead of a slope
1372 easement may be allowed by the reviewing agency.

1373 b. *Existing public roads.* In a preliminary plan or administrative
1374 subdivision plan application containing lots fronting on an
1375 existing State, County, or municipally maintained road, the
1376 subdivider must provide any additional required right-of-way
1377 dedication and reasonable improvement to the road in front of
1378 the subdivision, including sidewalks and bicycle facilities, as
1379 required by Master Plan, the Road Design and Construction
1380 Code or by a municipality, whichever applies.

1381 c. *Storm drainage.* The subdivider must grade and provide
1382 drainage structures and storm sewers according to a storm drain
1383 plan and permit approved by the Department of Transportation
1384 and Department of Permitting Services or applicable
1385 municipality, in coordination with the construction of public
1386 roads.

1387

- 1388 4. Additional standards for private roads.
- 1389 a. Designating Private roads.
- 1390 In general, except when a private road is identified in a master
1391 plan, the creation of public roads is preferred; an applicant must
1392 justify the use of a private road based upon the criteria below
1393 and the specific compelling circumstances of the property being
1394 developed.
- 1395 b. Justification for a private road:
- 1396 A subdivider who proposes a private road must provide a list of
1397 proposed design elements that do not meet public road
1398 standards, including context-sensitive road design standards or
1399 a previously approved Design Exception, and justify why those
1400 design elements are necessary for the proposed development.
1401 The justification for a private road must not be based solely on
1402 the installation of non-standard amenities that could be
1403 addressed under a Maintenance and Liability Agreement with
1404 the County.
- 1405 c. Standards. Private roads must be built to the construction
1406 specifications of the corresponding public road concerning
1407 paving detail and design data, including surface depth and
1408 structural design. The road must be designed in accordance with
1409 sound engineering principles for safe use, including: horizontal
1410 and vertical alignments for the intended target speed; adequate
1411 typical sections for vehicles, pedestrians, and bicyclists;
1412 compliance with the Americans with Disabilities Act; drainage
1413 and stormwater management facilities; intersection spacing and
1414 driveway locations; parking; lighting; landscaping or street
1415 trees; and utilities. The width and cross section of a private
1416 road must meet the right-of-way specified in a master plan or be
1417 equal to the corresponding public road standard unless modified
1418 by the Board. Private roads must conform to the horizontal
1419 alignment requirements of this Chapter. If a road is allowed to

- 1420 be a private road, the approval of the road will not require the
 1421 Department of Transportation to approve a Design Exception
 1422 for any aspect of the road's design.
- 1423 d. Road Classifications. When the Department of Transportation
 1424 determines that the proposed road is not needed to maintain
 1425 area circulation, provide continuous corridors to serve the
 1426 general public and quasi-public needs such as communication,
 1427 utility, and future potential transportation or other systemic
 1428 needs that serve the public on a long-term basis, and is not
 1429 needed to be part of the network modeled for area capacity,
 1430 consideration will be given to making the following roads
 1431 private:
- 1432 i. Only roads classified as either Business District,
 1433 Industrial, Secondary, Tertiary, or Alley may be
 1434 considered by the Board to be private. All other road
 1435 classifications must be public unless specifically
 1436 permitted to be a private road by a master plan.
- 1437 ii. Private roads with improvements above or below the
 1438 pavement are only allowed in projects that require site
 1439 plan review and approval.
- 1440 iii. Private roads should not be permitted if they will create a
 1441 segmented road ownership pattern, unless approved by
 1442 the Planning Board.
- 1443 iv. Private roads must not be permitted if they will
 1444 negatively affect development of other properties.
- 1445 v. Except where a Master Plan indicates that a Business
 1446 District street could be private, a Business District road
 1447 may be a private road only when it is not required to
 1448 provide an adequate traffic level of service. A private
 1449 Business District street may be approved only when the
 1450 proposed road is either not a connector between two

1451 higher classification roads or a road that is not planned to
1452 extend beyond the boundary of the preliminary plan.

1453 vi. An industrial road may be a private road only when the
1454 road is part of roads internal to the industrial site and the
1455 road is not a connector between higher classified roads.

1456 vii. A secondary road may be a private road only when it
1457 connects to no more than one higher classification road
1458 and the road does not need to be extended onto adjacent
1459 property to facilitate a future subdivision of land.

1460 viii. A tertiary road, when a cul-de-sac, must be less than 500
1461 feet in length.

1462 ix. A private alley will not require an access easement if the
1463 alley only serves one building or if the alley is a
1464 secondary access to one-family residential dwellings.

1465 e. Certification. Before the Board may approve a preliminary
1466 plan, the subdivider must have an engineer certify that each
1467 private road has been designed to meet the standards required
1468 by this Section; however, when a site plan is required under
1469 Chapter 59, Article 59-7.3.4, the certification may be provided
1470 anytime before the approval of the site plan. The subdivider
1471 must then certify to the Department of Permitting Services that
1472 all construction complies with the design before release of the
1473 surety for the road.

1474 [[3]]5. Additional roadway provisions.

1475 a. Road names. The Board must approve any road name before it
1476 is used. The Board must not approve any road name that is
1477 already used, or closely resembles any road name already used,
1478 anywhere else in the County. If a new road is an extension of or
1479 in a direct line with an existing road, the Board should continue
1480 the name of the existing road.

- 1481 b. Off-site sidewalks and bikeways. In approving a preliminary
 1482 plan, the Board may, after considering the recommendation of
 1483 the Department of Transportation or other applicable
 1484 transportation agency, require a developer to provide a
 1485 reasonable amount of off-site sidewalks[[, bikeways,]] or
 1486 bikeway improvements. Off-site sidewalks[[, bikeways,]] or
 1487 bikeway improvements may be required to provide necessary
 1488 connections from the proposed development to an existing
 1489 sidewalk or bikeway, an existing or master plan proposed bus
 1490 or other public transit stop, an existing or proposed bikeshare
 1491 station, or a public facility. The Board must find that such
 1492 facilities will be used by residents or users of the development
 1493 or for handicapped access. The developer must not be required
 1494 to obtain any right-of-way to build or improve a sidewalk or
 1495 bikeway unless required under another provision of law.
- 1496 c. Rustic roads. In approving a preliminary plan, the Board must
 1497 not require improvements that are contrary to Chapter 49,
 1498 Article 8 or Executive Regulations governing rustic roads. The
 1499 Board may waive any requirement of Sections 4.3.E.2. [[c]]b
 1500 and 4.3.E. [[2.d]]3.b that is incompatible with the rustic road or
 1501 substitute any alternative requirement that is consistent with the
 1502 goals of the rustic roads law. The Board may only require those
 1503 improvements that retain the significant features of the road
 1504 identified by the Council for preservation. If the Board is
 1505 otherwise directed by this Section to require improvements that
 1506 are contrary to the rustic roads law or Executive Regulations,
 1507 the Board must consider the recommendations of the Rustic
 1508 Roads Advisory Committee and evaluate the feasibility of trip
 1509 reduction and alternative road improvements to the local
 1510 roadway network. If the Board determines that no feasible
 1511 alternative exists, it may require improvements that are
 1512 necessary for traffic safety [[and]] or operational requirements.
- 1513 d. Road grade approval. No final grading, sidewalk or pavement
 1514 construction, or installation of utilities must be permitted in the

- 1515 bed of any proposed public or private road in any preliminary
 1516 plan or administrative subdivision plan until the grade has been
 1517 approved under this Chapter.
- 1518 e. *Pedestrian paths.* When a pedestrian path is included in a
 1519 preliminary plan or administrative subdivision plan, the
 1520 subdivider must grade and construct the path according to the
 1521 plan approved by the Board, [[County]] Department of
 1522 Permitting Services, or applicable municipality.
- 1523 [[f. *Storm drainage.* The subdivider must grade and provide
 1524 drainage structures and storm sewers according to a plan
 1525 approved by the County Department of Transportation and
 1526 County Department of Permitting Services or applicable
 1527 municipality in coordination with the construction of new
 1528 roads.]]
- 1529 [[g]]f. *Street lights.* The subdivider must provide street lights under
 1530 the standards required by the Road Design and Construction
 1531 Code. The [[County]] Department of Transportation may waive
 1532 any requirement under this Subsection for any new subdivision
 1533 that abuts a rustic road if the requirement is incompatible with
 1534 the rustic road, or may substitute any alternative requirement
 1535 that is consistent with the goals of the rustic roads law.
- 1536 [[h]]g. *Traffic calming.* The Board, [[in consultation with]] after
 1537 considering the recommendation of the appropriate
 1538 transportation agency, may require any traffic calming feature
 1539 [[under Section 49-30]] as a condition of subdivision approval.
- 1540 [[4]]6. *Platting roads.* [[Area for roads must be shown on a record plat
 1541 to the full width of the required right-of-way. A public road must be
 1542 dedicated to public use. A private road must be platted as a road
 1543 parcel with an access easement for the public and remain open and
 1544 unobstructed for use at all times as part of the project common area.
 1545 Inthe Commercial/Residential, Employment, Industrial, and Planned
 1546 Unit Development zones, a private road may be platted by an

1547 easement alone delineated within a lot on the plat if the Board finds it
1548 necessary to permit a structure that would otherwise cross a lot line
1549 created by a road parcel.]]

1550 The area for roads, when shown on a record plat, must be shown on a
1551 record plat to the full width of the required right-of-way.

1552 a. A public road must be dedicated to public use.

1553 b. A private road must be platted as a road parcel, except as
1554 allowed by Subsection c, and remain open and unobstructed for
1555 use at all times as part of the project's common area.

1556 c. In the Commercial/Residential, Employment, Industrial, and
1557 Planned Unit Development zones, a private road may be
1558 delineated within a lot on the plat if the Board finds it
1559 appropriate to permit a structure that would otherwise cross a
1560 lot line created by a road parcel.

1561 d. Restrictive covenant for private roads. All private roads must
1562 be recorded with a restrictive covenant approved by the Board
1563 that at a minimum ensures:

1564 i. that the road is designed and constructed in a manner that
1565 satisfies the requirements of this Chapter, and all
1566 requirements made by the Montgomery County Fire
1567 Marshal for emergency access, egress, and apparatus;

1568 ii. regular maintenance of the road by the property owner,
1569 with certification of regular inspections, and appropriate
1570 financial reserves required for short- and long-term
1571 maintenance and capital repairs;

1572 iii. that the road remains open at all times, unless approved
1573 by the Department of Permitting Services and the Fire
1574 Marshal; and

1575 iv. that the County and the Commission must be fully
1576 indemnified from all liability claims, demands, losses, or
1577 damages to person or property.

1578 F. Water supply and sewage disposal facilities.

1579 1. General. Before approving a preliminary plan, the Board must
1580 consider the availability of water and sewage facilities to the
1581 subdivision. The Board must [[rely on]] consider the recommendation
1582 of the Washington Suburban Sanitary Commission and the County
1583 Department of Environmental Protection, as applicable, concerning
1584 the proper type of water supply and sewage disposal.

1585 2. Requirements.

1586 a. The applicant must install or assure installation of any required
1587 public or private water and sewage disposal systems for each
1588 lot.

1589 b. Central water and sewer systems. All lots must have access to
1590 public central water and sewer facilities, and necessary private
1591 connections to such facilities, when conditions affecting the
1592 subject property result in one of the following determinations:

1593 i. public water and sewer connections are available to the
1594 proposed lots for existing mains;

1595 ii. existing public water and sewer mains can be extended to
1596 serve the lots; or

1597 iii. the County Department of Environmental Protection
1598 determines that an interim central water supply or sewage
1599 disposal facility, or both, must be constructed for public
1600 health and safety, pending future extension of the WSSC
1601 system or other public system.

1602 c. Use of County roads and State roads. For locations of any
1603 private connection to the public system within County or State
1604 road rights-of-way, the subdivider must obtain necessary

1605 permits to use public roads from the County or State, as
1606 applicable.

1607 3. *Septic tiers.*

1608 a. The Board must review any plan that includes residential lots
1609 under the Growth Tier rules as follows:

1610 i. in this Subsection:

1611 (a) a major subdivision is a division of land that would
1612 create 8 or more residential building lots; and

1613 (b) a minor subdivision is a division of land that
1614 would create 7 or fewer residential building lots.

1615 b. The Board must not approve any subdivision that would be
1616 served by one or more septic systems on land located in the
1617 Tier I area.

1618 c. The Board must not approve any major subdivision that would
1619 be served by one or more septic systems on land located in the
1620 Tier II area.

1621 d. The Board may approve a subdivision for any number of
1622 residential lots that would be served by one or more septic
1623 systems on land located in the Tier III area.

1624 e. The Board may approve a minor subdivision that would be
1625 served by one or more septic systems on land located in the
1626 Tier IV area.

1627 f. The Board may approve a major subdivision that would be
1628 served by one or more septic systems on land in the Tier IV
1629 area.

1630 g. The official map displaying the Growth Tier areas as allowed
1631 under the Maryland Sustainable Growth and Agricultural
1632 Preservation Act of 2012 is located on the Planning Department
1633 website. The Council may amend the official map either by:

- 1634 i. adopting Tiers in a General Plan amendment; or
- 1635 ii. an amendment under Section 10.7.

1636 The latest version of the map may be accessed from the
1637 Planning Department website at
1638 www.montgomeryplanning.org.

1639 G. *Markers and monuments.*

- 1640 1. The subdivider must have metal property line markers, approximately
1641 1/2-5/8 inch in diameter and 18 inches in length, or other generally
1642 accepted survey markers, placed in the ground at all lot corners,
1643 intersections of roads, intersections of roads and alleys with
1644 [subdivision] record plat boundary lines, and at all points on road,
1645 alley and boundary lines where there is a change in direction or
1646 curvature, unless such point coincides with the location of a reference
1647 monument. All markers must be properly set in the ground before the
1648 roads and alleys are accepted for public maintenance. For projects that
1649 do not include public roads, the owner and licensed land surveyor
1650 must certify to the [[County]] Department of Permitting Services that
1651 all property corner markers have been set by a licensed land surveyor.

- 1652 2. The licensed land surveyor hired by the owner must place markers
1653 and monuments in the ground after road grading and paving in the
1654 subdivision and grading and landscaping of adjacent lots are
1655 completed. The markers and monuments must be located as specified
1656 on the plat. The licensed land surveyor must certify to the [[County]]
1657 Department of Permitting Services, or other appropriate governmental
1658 agency or the municipality that all survey monuments and markers are
1659 in place before the County or municipality accepts any road or alley
1660 established by the plat for maintenance. The amenity bonds must not
1661 be released by M-NCPPC until the licensed land surveyor certifies to
1662 the Department of Permitting Services that all survey monuments are
1663 in place.

- 1664 H. Stormwater management. All stormwater management requirements must
1665 satisfy Chapter 19.
- 1666 I. Public utilities. Pipelines, electric power and energy lines, and
1667 telecommunications lines must be [[underground]] provided by the
1668 developer in all subdivisions.
- 1669 1. Installation. [[Unless the Board determines that it is infeasible, the
1670 developer must install new and existing utilities underground.]]
- 1671 a. Within the property being subdivided, the developer must
1672 install any new pipelines, electric power and energy lines, and
1673 telecommunications lines underground.
- 1674 b. The developer may also be required to underground any above-
1675 ground or overhead utilities that exist either within the property
1676 being subdivided or within the road right-of-way along the
1677 frontage of the property being subdivided, if the Board
1678 determines it is necessary based upon the size and density of a
1679 proposed subdivision.
- 1680 2. Completion. The Board may not approve a final plat until the
1681 developer demonstrates that the applicable utility companies or public
1682 agencies are able to provide utility service to the subdivision and
1683 installation by the developer has been assured under Section 10.2.
- 1684 3. Easements.
- 1685 a. The subdivider must establish utility easements, which must be
1686 shown on the record plat, to allow for installation of utility lines
1687 servicing the proposed subdivision and the future extension
1688 thereof to any property adjoining the subdivision, which:
- 1689 i. provide the minimum area needed to maintain each of the
1690 lines as determined by the Board with consultation from
1691 the utility provider; and
- 1692 ii. are adjacent to, or accessible from, a road right-of-way.

1693 With County DPS permission, utilities may be placed within conduit
1694 in public road rights-of-way. Utilities placed within private road
1695 rights-of-way by a developer must also be in conduit.

1696 b. When a private road is allowed, the Board must also require the
1697 developer to provide to the County an additional public infrastructure
1698 area at least 4 feet wide, adjacent to private roads, or in other
1699 appropriate locations that create contiguous service corridors within
1700 the development that connect to and are accessible from a public
1701 right-of-way to provide for future:

1702 i. relocation of existing utilities permitted to remain in a road
1703 right-of-way; and

1704 ii. installation of new communication facilities.

1705 When a structure is proposed under a private road and the public
1706 infrastructure area is located in the road right-of-way, the developer
1707 must construct conduits within the infrastructure area to the County's
1708 specification.

1709 J. Adequate Public Facilities Ordinance (APFO).

1710 1. Definitions. Words and phrases used in this Subsection have the
1711 meanings indicated in Chapter 8, Section 8-30.

1712 2. Applicability. The Board may only approve a preliminary plan when it
1713 finds that public facilities will be adequate to support and service the
1714 subdivision. Public facilities and services to be examined for
1715 adequacy include roads and transportation facilities, sewer and water
1716 service, schools, police stations, firehouses, and health clinics.

1717 3. Exemptions. The following developments are exempt from the
1718 requirements of this Subsection:

1719 a. exclusively residential development on a lot or parcel recorded
1720 by plat before July 25, 1989, or otherwise recorded in
1721 conformance with a preliminary plan approved before that date;

- 1722 b. any place of worship or use associated with a place of worship
- 1723 that does not generate peak hour vehicle trips that exceed the
- 1724 limits of the Subdivision Staging Policy traffic test; and

- 1725 c. any addition to a school associated with a place of worship that
- 1726 existed before July 25, 1989.

- 1727 4. Approval procedure.

- 1728 a. Each applicant for a preliminary plan must submit sufficient
- 1729 information for the subdivision to demonstrate the expected
- 1730 impact on and use of public facilities and services by the
- 1731 subdivision.

- 1732 b. The Board must consider the recommendations of the
- 1733 Executive and other agencies in determining the adequacy of
- 1734 public facilities and services under the Subdivision Staging
- 1735 Policy or other applicable guidelines.

- 1736 c. If the Board finds, under criteria and standards adopted by the
- 1737 Council, that additional transportation facilities or traffic
- 1738 mitigation measures are necessary to ensure that [[public]]
- 1739 transportation facilities will be adequate to serve the
- 1740 subdivision and to meet the transportation goals established by
- 1741 a master plan or the Subdivision Staging Policy for that portion
- 1742 of the County, the subdivision plan [[must]] may also be subject
- 1743 to the execution of a Traffic Mitigation Agreement (TMAg) at
- 1744 the discretion of the Board.

- 1745 5. Validity period.

- 1746 a. A determination of adequate public facilities made under this
- 1747 Chapter is timely and remains valid:

- 1748 i. for 12 years after the preliminary plan is approved for
- 1749 any plan approved after July 24, 1989, but before
- 1750 October 19, 1999;

- 1751 ii. for no less than 5 and no more than 12 years after the
1752 preliminary plan is approved, as determined by the Board
1753 when it approved the plan, for any plan approved after
1754 October 18, 1999, but before August 1, 2007;
- 1755 iii. for no less than 7 and no more than 12 years after the
1756 preliminary plan is approved, as determined by the Board
1757 when it approved the plan, for any plan approved after
1758 March 31, 2009, but before April 1, 2017; and
- 1759 iv. for no less than 5 and no more than 10 years after the
1760 preliminary plan is approved, as determined by the Board
1761 when it approved the plan, for any plan approved after
1762 July 31, 2007, and before April 1, 2009, or after March
1763 31, 2017.
- 1764 b. If an applicant requests a longer validity period than the
1765 minimum specified in 5.a, the applicant must submit a
1766 development schedule or phasing plan for completion of the
1767 project to the Board for its approval.
- 1768 i. At a minimum, the proposed development schedule or
1769 phasing plan must show the minimum percentage of the
1770 project that the applicant expects to complete in the first
1771 5 or 7 years, whichever is the applicable minimum, after
1772 the preliminary plan is approved.
- 1773 ii. To allow a validity period longer than the specified
1774 minimum, the Board must find that the size or
1775 complexity of the subdivision warrant the extended
1776 validity period and would not be adverse to the public
1777 interest. The Board must condition a validity period
1778 longer than the specified minimum on adherence to the
1779 proposed development schedule or phasing plan, and
1780 may impose other improvements or mitigation conditions
1781 if those conditions are needed to assure adequate levels

1782 of transportation or school service during the validity
1783 period.

1784 6. Validity period – County arts or entertainment use.

1785 a. A determination of adequate public facilities made under this
1786 Chapter is timely and remains valid for 10 years after the date
1787 of the conveyance of land to the County, or possession of
1788 building space by the County for an arts or entertainment use,
1789 under a preliminary plan for an optional method of
1790 development project approved under Section 59-C-6.2356 of
1791 the zoning ordinance in effect on October 29, 2014.

1792 b. The Board must grant an application to extend the validity
1793 period established under this paragraph for an additional 5 years
1794 if:

1795 i. at least 20 percent of the approved development,
1796 excluding the arts or entertainment use, either separately
1797 or in combination:

1798 (a) has been built;

1799 (b) is under construction;

1800 (c) is subject to building permits that have been
1801 issued;

1802 (d) is subject to a valid lease; or

1803 (e) has had a site plan approved under Sections 59-
1804 7.3.4 or 7.7.1.B; or

1805 ii. at any time during the 24 months before the application
1806 for extension being filed, the vacancy rate for class A
1807 office buildings in the Central Business District in which
1808 the project is located reaches 10 percent for direct and
1809 sublet space combined, as measured by a commercial
1810 Multiple Listings Service benchmark; or

1811 iii. the applicant makes a binding commitment to the County
1812 to make a contribution, as compensation for potential loss
1813 of property tax revenues, an amount equal to \$2 for each
1814 square foot of approved taxable improvements and
1815 thereafter makes the contribution within 6 months of
1816 final approval of the extension.

1817 c. The validity period is extended for the duration of any
1818 government imposed moratorium, or other government action
1819 resulting in a similar effect, that would prevent the applicant
1820 from:

1821 i. completing the regulatory approvals necessary for
1822 obtaining a building permit; or

1823 ii. obtaining a building permit.

1824 d. If the applicant proposes to change a use in a project that is
1825 approved under Section 59-C-6.2356 of the zoning ordinance in
1826 effect on October 29, 2014, and the new use would have the
1827 same or lesser impact as the original determination of adequate
1828 public facilities, the adequate public facilities approval for the
1829 project remains valid.

1830 7. Extensions.

1831 a. Application. Only the Board may extend the validity period for
1832 a determination of adequate public facilities; however, a request
1833 to amend any validity period phasing schedule may be
1834 approved by the Director if the length of the total validity
1835 period is not extended.

1836 i. The applicant must file an application for extension of an
1837 adequate public facilities determination or amendment of
1838 a phasing schedule before the applicable validity period
1839 or validity period phase expires.

- 1840 ii. The applicant must submit a new development schedule
1841 or phasing plan for completion of the project for
1842 approval.
- 1843 iii. For each extension of an adequate public facilities
1844 determination:
- 1845 (a) the applicant must not propose any additional
1846 development above the amount approved in the
1847 original determination;
- 1848 (b) the Board must not require any additional public
1849 improvements or other conditions beyond those
1850 required for the original preliminary plan;
- 1851 (c) the Board may require the applicant to submit a
1852 traffic study to demonstrate how the extension
1853 would not be adverse to the public interest; and
- 1854 (d) an application may be made to extend an adequate
1855 public facilities period for a lot within a
1856 subdivision covered by a previous adequate public
1857 facilities determination if the applicant provides
1858 sufficient evidence for the Board to determine the
1859 amount of previously approved development
1860 attributed to the lot.
- 1861 b. The Board may approve an amendment to the new development
1862 schedule approved under paragraph 7.a.ii if the applicant shows
1863 that financing has been secured for either:
- 1864 i. completion of at least one new building in the next stage
1865 of the amended development schedule; or
- 1866 ii. completion of infrastructure required to serve the next
1867 stage of the amended development schedule.
- 1868 c. *Exclusively residential subdivisions.* The Board may extend a
1869 determination of adequate public facilities for an exclusively

1870 residential subdivision beyond the otherwise applicable validity
1871 period if the [[County]] Department of Permitting Services has
1872 issued building permits for at least 50 percent of the entire
1873 subdivision before the application for extension is filed. The
1874 Board may approve one or more extensions if the aggregate
1875 length of all extensions for the development does not exceed:

1876 i. 2.5 years for a subdivision with an original validity
1877 period of 7 years or less; or

1878 ii. 6 years for a subdivision with an original validity period
1879 longer than 7 years.

1880 d. *Nonresidential or mixed-use subdivisions.*

1881 i. The Board may extend a determination of adequate
1882 public facilities for a preliminary plan for nonresidential
1883 or mixed-use development beyond the otherwise
1884 applicable validity period if:

1885 (a) the [[County]] Department of Permitting Services
1886 issued building permits for structures that [[will
1887 generate]] comprise at least 40% of the total
1888 approved [[peak-hour vehicle trips associated with
1889 the development]] gross floor area for the project;

1890 (b) all of the infrastructure required by the conditions
1891 of the original preliminary plan approval has been
1892 constructed, or payments for its construction have
1893 been made; and

1894 (c) the [[County]] Department of Permitting Services
1895 either issued occupancy permits or completed a
1896 final building permit inspection for:

1897 (1) structures that [[generate]] comprise at least
1898 10 percent of the total [[peak-hour vehicular
1899 trips associated with the project]] gross floor

- 1900 area approved for the project within the 4
 1901 years before an extension request is filed; or
- 1902 (2) structures that [[generate]] comprise at least
 1903 5 percent of the total [[peak-hour vehicular
 1904 trips associated with the project]] gross floor
 1905 area approved for the project within the 4
 1906 years before an extension request is filed, if
 1907 structures that [[generate]] comprise at least
 1908 60 percent of the total [[peak-hour vehicular
 1909 trips associated with the project]] gross floor
 1910 area approved for the project have been built
 1911 or are under construction.
- 1912 ii. For any development that consists of more than one
 1913 preliminary plan, the requirements of 7.d.i apply to the
 1914 combined project. A project consists of more than one
 1915 preliminary plan if the properties covered by the
 1916 preliminary plans of subdivision are contiguous and were
 1917 approved at the same time.
- 1918 iii. The length of any extension of the validity period granted
 1919 under 7.d.i must be based on the approved new
 1920 development schedule under 7.a.ii, but must not exceed:
- 1921 (a) 2.5 years for a subdivision with an original validity
 1922 period of 7 years or less; or
- 1923 (b) 6 years for a subdivision with an original validity
 1924 period longer than 7 years.
- 1925 iv. The extension expires if the applicant has not timely
 1926 requested an extension and the development is not
 1927 proceeding in accordance with the phasing plan, unless
 1928 the Board or the Director has approved a revision to the
 1929 schedule or phasing plan.

- 1930 v. In addition to the extension permitted under 7.d.iii, the
1931 Board may approve one or more additional extensions of
1932 a determination of adequate public facilities, not to
1933 exceed a total of 2.5 or 6 years, as applicable, if:
- 1934 (a) development that [[generates]] comprises 30% or
1935 less of the total [[peak-hour vehicular trips]]
1936 approved gross floor area for the project remains to
1937 be built of either the entire approved development
1938 or the share of the development to be built by that
1939 applicant; or
- 1940 (b) the applicant will commit to reduce the amount of
1941 unbuilt development by at least 10%, and the
1942 validity period for the amount to be reduced will
1943 expire as scheduled.
- 1944 e. The Board may extend a determination of adequate public
1945 facilities once for up to 12 more years beyond the otherwise
1946 applicable validity period if the Board finds that:
- 1947 i. the preliminary plan for the development required a
1948 significant commitment of funds by the applicant,
1949 amounting to at least \$3 million, as adjusted annually by
1950 the consumer price index, to comply with specified
1951 infrastructure conditions;
- 1952 ii. the applicant has met or exceeded the required
1953 infrastructure conditions during the original validity
1954 period; and
- 1955 iii. the applicant's satisfaction of the required infrastructure
1956 conditions provides a significant and necessary public
1957 benefit to the County by implementing infrastructure
1958 goals of an applicable master plan.
- 1959 f. The validity period of a finding of adequate public facilities is
1960 not automatically extended under any circumstance, including

1961 when an applicant has completed all conditions imposed by the
1962 Board at the time of preliminary plan approval to meet adequate
1963 public facilities requirements.

1964 g. If a new adequate public facilities determination is required
1965 under this Subsection, the procedures in Chapter 8, Section 8-
1966 32 apply.

1967 K. Environment.

1968 1. Forest conservation. If a forest conservation plan is required under
1969 Chapter 22A, the Board must not approve a preliminary plan or any
1970 extension until all applicable requirements of that Chapter are
1971 satisfied. The Board must make compliance with a required forest
1972 conservation plan a condition of any approved preliminary plan,
1973 including any plan reviewed on a preliminary or final basis.

1974 2. Restriction of subdivision for environmental protection.

1975 a. Affected land.

1976 i. Floodplains. The Board must restrict subdivision or
1977 development of any property that is located in the 100-
1978 year floodplain as required by the [[County]] Department
1979 of Permitting Services under Chapter 19, Article III.

1980 ii. Unsafe Land. The Board must restrict the subdivision or
1981 development of any land it finds to be unsafe for
1982 development because of potential for flooding or stream
1983 erosion, soils with structural limitations, unstabilized
1984 slope or fill, steep slopes, or similar environmental or
1985 topographical conditions.

1986 iii. Trees, forests, and environmentally sensitive areas. The
1987 Board may restrict the subdivision or development of
1988 land to protect environmentally sensitive areas and
1989 achieve the objectives of Chapter 22A relating to
1990 conservation of tree and forest resources.

- 1991 **b.** *Restrictions.*
- 1992 **i.** *General.* In addition to any requirement imposed under
- 1993 Chapter 22A, the proposed preliminary plan or
- 1994 administrative subdivision plan may be restricted under
- 1995 this Section by:
- 1996 (a) deletion or rearrangement of proposed lots, roads,
- 1997 utilities, and other facilities;
- 1998 (b) the establishment of building restriction and land
- 1999 disturbance limit lines, and other protective
- 2000 measures or conditions; or
- 2001 (c) requirement of conservation easements, deed
- 2002 restrictions, or covenants over portions of lots or
- 2003 unplatted parcels to be recorded.
- 2004 **ii.** *Building restriction line.* The Board may require a
- 2005 building restriction line shown on the plat to protect
- 2006 floodplain and other environmentally sensitive or unsafe
- 2007 building areas.
- 2008 **iii.** *Limit of disturbance line.* The Board may require a limit
- 2009 of disturbance line to protect environmentally sensitive
- 2010 areas or unsafe land.
- 2011 **iv.** *Floodplain or unsafe land on a lot.* The Board may allow
- 2012 a platted lot to contain floodplain or unsafe land when
- 2013 there is sufficient safe ground to erect a building within
- 2014 the required setbacks of the zoning classification. The
- 2015 Board may require a building restriction line on the plat.
- 2016 The restriction line must provide at least a 25-foot
- 2017 setback between any building and the unsafe areas. A
- 2018 greater setback must be provided where necessary for
- 2019 positive drainage between the building and unsafe area.

2020 v. [[Denial of a building permit. The County Department of
2021 Permitting Services must not issue a permit for a new
2022 building within any area for which building or land
2023 disturbance is restricted under this Section.]]

2024 Regulations. The Planning Board may use regulations
2025 adopted under Chapter 22A to administer this Section.

2026 L. Residential cluster subdivision.

2027 1. Purpose. The cluster method of subdivision is intended to promote
2028 both flexibility in lot size and variety of housing types in residential
2029 communities without changing existing densities or neighborhood
2030 character. This method of development is also intended to encourage
2031 the preservation of existing topography, priority forests, and
2032 environmentally sensitive areas while providing useful community
2033 green or open space. [[The Board must approve the use of this
2034 optional method of subdivision.]]

2035 2. Conditions for use. The use of the cluster method of development is
2036 subject to Board approval and the following conditions and
2037 requirements:

2038 a. the requirements in Chapter 59 in the applicable zone;

2039 b. except in the Rural Cluster zone or as recommended by a
2040 master plan in the Residential Estate-2C zone, [[an applicant
2041 may only propose a cluster development]] when WSSC will
2042 serve the development by public water and sewer;

2043 c. the open space and green areas proposed by the applicant in the
2044 cluster development must comply with the general purpose of
2045 cluster development, and the application must include a plan
2046 detailing the post-development maintenance responsibilities and
2047 use of those areas; and

2048 d. the Board must count the land dedicated to public use for
2049 school and park sites in the tract area for the purpose of

2050 calculating density, and allow the use of the resulting density
2051 development of the remaining land when this can be
2052 accomplished in compliance with the purposes of this Section.

2053 3. Procedure for approval.

2054 a. In addition to any other required information in the preliminary
2055 plan application, the applicant must include a statement
2056 outlining the ownership and use of the common open space and
2057 green area within the subdivision, and a plan showing the
2058 construction staging of all improvements. The Board must
2059 make the staging plan part of the preliminary plan approval and
2060 must be subject to approval by the Board.

2061 b. The Board must determine whether the site is appropriate for
2062 cluster development and will accomplish the purposes of the
2063 cluster method of development. In making this determination,
2064 the Board must consider the following:

2065 i. the influence that the proposed development may have on
2066 existing or future development in nearby areas;

2067 ii. the spatial relationship between the buildings and the
2068 open space and green area;

2069 iii. the location, character, area, and dimensions of the open
2070 space and green area and its usefulness for the common
2071 recreational or other purposes for its intended use;

2072 iv. the adequacy of the staging plan;

2073 v. the nature of the site; and

2074 vi. the use and zoning of nearby land.

2075 **Division 50.5. Pre-Preliminary Submissions**

2076 **Section 5.1. Filing and Specifications**

- 2077 A. Filing. Before a subdivider submits a preliminary plan, the subdivider may
 2078 seek advice on limited aspects of a future subdivision plan from the Planning
 2079 Department Staff, the Development Review Committee, or the Board as
 2080 appropriate, or seek a binding decision from the Board. The Applicant must
 2081 file a pre-preliminary submission and applicable supporting information,
 2082 together with an application form and fee under Section 4.1.A.
- 2083 B. The drawing. A pre-preliminary drawing must contain the location of the
 2084 property and sufficient information concerning the issue on which advice or
 2085 a decision is requested. The drawing may include, but is not limited to:
- 2086 1. the generalized layout of the subdivision;
 - 2087 2. the location and classification of roads, public rights-of-way, existing
 2088 and proposed easements, and dedications of land;
 - 2089 3. the method of controlling erosion, sediment, and stormwater;
 - 2090 4. the relationship to existing or planned subdivisions;
 - 2091 5. the provisions for water and sewerage; and
 - 2092 6. any other features or information the applicant chooses to submit.

2093 **Section 5.2. Approval Procedure**

- 2094 A. Referral. Application processing and referral of the plan must satisfy
 2095 Sections 4.1.D and 4.2.A.
- 2096 B. Hearing date. The Board must schedule a public hearing to begin within 90
 2097 days after the date an application is accepted. The Director may postpone the
 2098 public hearing once, by up to 30 days, without Board approval. The Director
 2099 or applicant may request an extension beyond the original 30 days with
 2100 Board approval. Any extension of the public hearing must be noticed and on
 2101 the Board's hearing agenda with the new public hearing date indicated.
- 2102 C. Action on a pre-preliminary submission.
- 2103 1. Advisory. The Development Review Committee must provide
 2104 recommendations on the pre-preliminary plan on the day of the

2105 scheduled committee meeting. Planning Department Staff must
 2106 transmit the recommendations provided by agencies outside of the
 2107 committee meeting to the applicant when they are received.

2108 2. *Binding.*

2109 a. After receiving the recommendations of the public agencies and
 2110 the advice of the Development Review Committee, the
 2111 Planning Department Staff must present the application to the
 2112 Board, together with its recommendations for approval,
 2113 disapproval, or approval with conditions. The Board must act
 2114 to:

2115 i. approve the pre-preliminary submission;

2116 ii. disapprove it, stating in writing the reasons for
 2117 disapproval; or

2118 iii. approve it, subject to such conditions or modifications as
 2119 the Board finds necessary. Approval of any feature of a
 2120 pre-preliminary submission does not limit the ability of
 2121 the Board to impose further conditions at the time of
 2122 preliminary plan on features not included in the Board's
 2123 binding decision.

2124 3. *Modification of preliminary plan procedures after pre-preliminary*
 2125 *submission approval.*

2126 a. A subdivider must file an application for a preliminary plan
 2127 within 90 days after the date of mailing of the Board resolution
 2128 for the pre-preliminary plan; otherwise, the approval will
 2129 expire.

2130 b. The procedures in Sections 4.1 and 4.2 are modified as follows:

2131 i. the preliminary plan application must contain the
 2132 statement of the Board's action on the pre-preliminary
 2133 application;

- 2134 ii. in their review of the preliminary plan under Section 4.2,
- 2135 the agencies to which the preliminary plan is referred and
- 2136 the Planning Department Staff must not recommend
- 2137 changes or modifications to the binding pre-preliminary
- 2138 decision made by the Board, unless requested in writing
- 2139 by the applicant or unless the applicant substantially
- 2140 changes some feature of the approved pre-preliminary
- 2141 submission. The Board must review any conditions
- 2142 imposed as part of the Board’s binding decision to
- 2143 determine that the preliminary plan satisfied those
- 2144 conditions; and

- 2145 iii. the Board, in its review of the preliminary plan, must
- 2146 consider only those features of the preliminary plan that
- 2147 are not in conformity with the conditions imposed by the
- 2148 Board in the pre-preliminary application review, plus any
- 2149 features not considered or acted upon in that review.

2150 **Division 50.6. Administrative Subdivision Plan**

2151 **Section 6.1. Applicability**

2152 The subdivider may file an administrative subdivision plan application instead of a
2153 preliminary plan under the following circumstances. The Director must review the
2154 necessary technical requirements of the administrative subdivision plan under
2155 Section 4.3.

2156 A. *Existing places of worship and institutional uses.* The Board may approve a
2157 lot created for existing facilities such as: places of worship, private schools,
2158 country clubs, private institutions, and similar uses located on unplatted
2159 parcels, if:

- 2160 1. the applicable requirements for adequate public facilities under
- 2161 Section 4.3.J are satisfied before approval of the plat;

- 2162 2. any required road dedications, or covenants for future dedications, are
- 2163 shown on the record plat;

- 2164 3. requirements for meeting forest conservation, stormwater
2165 management, and environmental protection, if applicable, are satisfied
2166 before approval of the plat;
- 2167 4. it is located in a special protection area and all applicable special
2168 protection area requirements and guidelines are satisfied before
2169 approval of the plat;
- 2170 5. a landscaping and lighting plan including the parking lot layout is
2171 submitted for Planning Department Staff approval before approval of
2172 the plat; and
- 2173 6. the property is the subject of an approved conditional use and all
2174 conditions of the conditional use approval remain in full force.
- 2175 B. Subdivision for creation of certain residential lots located in the
2176 Agricultural Reserve zone. Up to 5 lots for detached houses are permitted
2177 under these procedures in the AR zone if:
 - 2178 1. written approval for a proposed well and septic area is received from
2179 the [[County]] Department of Permitting Services before approval of
2180 the plat;
 - 2181 2. any required road dedications and public utility easements along the
2182 frontage of the proposed lots are shown on the record plat, and the
2183 applicant provides any required improvements;
 - 2184 3. the requirements for adequate public facilities under Section 4.3.J are
2185 satisfied before approval of the plat;
 - 2186 4. a covenant is recorded for the unplatted balance of the tract noting that
2187 density and development rights have been used for the new lots [[.
2188 This covenant must be]] and noted on the record plat for the lots;
 - 2189 5. lots created in the AR zone through this procedure are 5 acres or less,
2190 unless approved by the Board; and
 - 2191 6. forest conservation and environmental protection requirements are
2192 satisfied before approval of the plat.

- 2193 C. Subdivision for creation of certain residential lots. Up to 3 lots for detached
 2194 houses are permitted in any residential zone under these procedures [[in the
 2195 Residential Estate-2, Rural, Rural Cluster, and Rural Neighborhood Cluster
 2196 zones, or one lot for a detached house created in any residential zone by
 2197 platting the entirety of one existing unplatted parcel created before October
 2198 8, 1985,]] if:
- 2199 1. the lots are approved for standard method development;
 - 2200 2. written approval for any proposed well and septic area is received
 2201 from the [[County]] Department of Permitting Services, Well and
 2202 Septic Section before approval of the plat;
 - 2203 3. any required road dedications and associated public utility easements
 2204 are shown on the plat and the applicant provides any required
 2205 improvements;
 - 2206 4. the requirements for adequate public facilities under Section 4.3.J are
 2207 satisfied before approval of the plat; and
 - 2208 5. forest conservation, stormwater management, and environmental
 2209 protection requirements are satisfied before approval of the plat.
- 2210 D. Consolidation of existing lots or parts of lots in a nonresidential zone. In a
 2211 nonresidential zone, a lot may be created by combining existing adjoining
 2212 lots, or a lot and a part of a previously platted lot, if:
- 2213 1. the lots or parts of lots are:
 - 2214 a. created by the same subdivision, and any applicable conditions
 2215 of the original subdivision approval, including limits on
 2216 density, remain in effect; or
 - 2217 b. created by a subdivision approval without specific density
 2218 limits and the new lot is limited to the density of the existing
 2219 development;

- 2220 2. any required road dedications and public utility easements along the
2221 frontage of the proposed lots are shown on the record plat, and the
2222 applicant must provide any required improvements;

- 2223 3. where new development is proposed, the requirements for adequate
2224 public facilities under Section 4.3.J are satisfied before approval of the
2225 plat;

- 2226 4. forest conservation, stormwater management, and environmental
2227 protection requirements, if applicable, are satisfied before approval of
2228 the plat; and

- 2229 5. located in a special protection area, and all applicable special
2230 protection area requirements and guidelines are satisfied before the
2231 Board approves the plat.

2232 **Section 6.2. Filing Requirements**

- 2233 A. Filing. The Applicant must file the administrative subdivision plan and
2234 applicable supporting information, together with an application form and fee
2235 to satisfy Subsection 4.1.A.

- 2236 B. Application processing.

- 2237 1. The applicant must submit an initial application to the Director. The
2238 Director must review the application for completeness within 5 days
2239 after receipt. An application is incomplete if any required element is
2240 missing or is facially defective, e.g., a drawing that is not to scale. The
2241 assessment of completeness must not address the merits of the
2242 application.

- 2243 2. The applicant must resubmit a revised application within 10 days from
2244 the date of the written rejection, or the application will be
2245 automatically withdrawn. The Director must review the revised
2246 application for completeness within 5 days after receipt.

- 2247 3. The administrative subdivision plan is deemed filed when the
2248 application has been accepted as complete for review.

- 2249 4. Public notice is required per a regulation approved under Section 10.1.
- 2250 C. The drawing. An administrative subdivision plan must contain sufficient
- 2251 information relevant to the aspects of the submission. The plan must include
- 2252 the generalized layout of the subdivision and any other features or
- 2253 information needed to support submission of a plat.

2254 **Section 6.3. Approval Procedures**

- 2255 A. Referral of plan. Immediately after accepting an application, the Director
- 2256 must send a copy to the Development Review Committee and other
- 2257 reviewing agencies for the agencies’ comments concerning the plan. The
- 2258 Development Review Committee must provide recommendations to the
- 2259 Director on the administrative subdivision plan at or before the committee
- 2260 meeting.

- 2261 B. Action on an administrative subdivision plan.

- 2262 1. After receiving the recommendations of the Development Review
- 2263 Committee and other reviewing agencies, and considering
- 2264 correspondence from other interested parties, the Director must
- 2265 approve or disapprove the administrative subdivision plan in writing.
- 2266 In the alternative, the Director may require that the plan be acted on
- 2267 by the Board. When applicable, the Director must schedule Board
- 2268 action on its next available agenda. If approved, the plan will remain
- 2269 valid under Section 4.2.G, by which time a plat must be recorded.

- 2270 2. All necessary improvements to support the development must be
- 2271 completed or assured under Section 10.2.

- 2272 [[3. If correspondence is received, the Director must decide whether any
- 2273 comment is substantive enough to require that the plan be acted on by
- 2274 the Board. When applicable, the Director must schedule Board action
- 2275 on its next available agenda. If approved, the plan will remain valid
- 2276 under Section 4.2.G, by which time a plat must be recorded.]]

- 2277 [[4]]3. The Director must take action on an administrative subdivision plan
- 2278 or schedule a public hearing within 90 days after the date an

2279 application is accepted. The Director may postpone the public hearing
2280 once, by up to 30 days, without Board approval. The Director or
2281 applicant may request an extension beyond the original 30 days with
2282 Board approval. Any extension of the public hearing must be noticed
2283 [[and]] on the hearing agenda with the new public hearing date
2284 indicated.

2285 C. *Appeal of an administrative subdivision plan.*

2286 1. *Appeal to the Planning Board.* After the Director issues a written
2287 decision on an administrative subdivision plan, an applicant or party
2288 who [[received notice of the application and]] testified or submitted
2289 testimony on the plan may appeal the decision to the Board within 30
2290 days.

2291 2. *Hearing.* The Board must hold a *de novo* hearing on the appeal. The
2292 Board must adopt a written resolution explaining its decision. For
2293 purposes of judicial review, the decision of the Board is the final
2294 agency action.

2295 **Division 50.7. Minor Subdivision**

2296 **Section 7.1. Applicability**

2297 The submission of a preliminary plan or administrative subdivision plan under
2298 Sections 4.1 and 4.2, and Sections 6.1 and 6.2, is not required for:

2299 A. *Minor lot line adjustment.* The sale or exchange of part of a lot between
2300 owners of adjoining lots for the purpose of small adjustments in boundaries,
2301 if:

2302 1. *the total area of the adjustment is 5 percent or less of the combined*
2303 *area of the lots affected by the adjustment;*

2304 2. *additional lots are not created;*

2305 3. *the adjusted lot line is approximately parallel with the original lot line*
2306 *or, if it is proposed to intersect with the original line, it does not*
2307 *significantly change the shape of the lots involved;*

- 2308 4. the owner submits a scaled drawing for review and approval by the
2309 Director. The drawing may be a copy of the existing record plat and
2310 must contain the following information:
- 2311 a. proposed lot line adjustment as a dashed line;
- 2312 b. any buildings, driveways, or other improvements located within
2313 15 feet of the proposed adjusted lot line;
- 2314 c. any minimum building setback that would be altered by the
2315 minor lot line adjustment; and
- 2316 d. the amount of lot area affected by the minor lot line adjustment;
- 2317 5. The drawing is approved, revised, or denied by the Director in writing
2318 within 10 days after the drawing is submitted or it is deemed
2319 approved.
- 2320 A record plat application must be submitted to the Director within 90
2321 days after approval or the approval is void.
- 2322 Any minor lot line adjustment between properties that occurred before May
2323 19, 1997 remains as an exemption to platting under Subsection 3.3.B.3.
- 2324 B. Conversion of an outlot into a lot. An outlot may be converted into a lot if:
- 2325 1. the outlot is not required for open space or green area, or is otherwise
2326 constrained in a manner that prevents it being converted into a
2327 buildable lot;
- 2328 2. there is adequate sewerage and water service to accommodate
2329 development on the lot;
- 2330 3. all applicable requirements or agreements under the Adequate Public
2331 Facilities Ordinance in Subsection 4.3.J and the Subdivision Staging
2332 Policy are satisfied before recording the plat;
- 2333 4. all applicable conditions or agreements applicable to the original
2334 subdivision approval creating the outlot apply to the new lot. The
2335 conditions and agreements may include, but are not limited to, any

2336 adequate public facilities agreement, conservation easement, or
2337 building restriction lines; and

2338 5. if the outlot is located within a special protection area [[and]], all
2339 applicable special protection area requirements and guidelines,
2340 including the approval of a water quality plan, are satisfied before
2341 recording the plat.

2342 C. Consolidation. Adjoining properties in the Rural Residential or Residential
2343 Detached zones, not developed under cluster provisions, may be combined
2344 in the following ways:

2345 1. by consolidating 2 or more lots into a single lot, consolidating lots and
2346 an outlot into a single lot, or consolidating a lot and an abandoned
2347 road right-of-way, if:

2348 a. any conditions applicable to the original subdivision remain in
2349 effect;

2350 b. the number of trips generated on the new lot do not exceed
2351 those permitted for the original lots; and

2352 c. all required right-of-way dedication is provided.

2353 2. by consolidating an existing platted lot or part of a lot that contains a
2354 legally constructed detached house, with a piece of land created as a
2355 result of a deed, if:

2356 a. the portion of land created by deed cannot itself be platted
2357 under the area and dimensional standards of the zone;

2358 b. any conditions applicable to the existing lot remain in effect on
2359 the new lot;

2360 c. any required road dedication is provided; and

2361 d. the existing platted lot was not identified as an outlot on a plat.

2362 D. Subdivision to reflect ownership. A recorded lot approved [[Plats]] for a
2363 commercial, industrial, or multi-unit residential [[lot]] use may be

- 2364 [[recorded]] resubdivided to create or delete an internal lot to reflect a
2365 change in ownership, deed, mortgage, or lease line [[as follows:
- 2366 1. a plat may be filed to create or delete an internal lot or create
2367 ownership lots within a previously recorded lot,]] if:
- 2368 [[a]]1.all conditions of approval for the original subdivision that
2369 created the lot remain in effect;
- 2370 [[b]]2. the total maximum number of trips generated on all new
2371 lots [[or ownership lots]] created will not exceed the number of
2372 trips approved for the lot in the original subdivision;
- 2373 [[c]]3.all land in the original subdivision lot is included in the plat;
2374 and
- 2375 [[d]]4. all necessary code requirements of Chapters 8, 19, and 22
2376 are met and any necessary cross easements, covenants, or other
2377 deed restrictions necessary to implement all the conditions of
2378 approval on the lot in the original subdivision are executed
2379 before recording the plat.
- 2380 [[2. for ownership lots, the lot in the original subdivision is considered a
2381 single lot of record. Any ownership lot created under this Subsection
2382 is only for the convenience of the owner; an ownership lot is not:
- 2383 a. used to determine building setbacks or to establish conformance
2384 with any other law or regulation;
- 2385 b. a bar to receiving a building permit or other approval necessary
2386 to develop or use any of the ownership lots and structures on
2387 such lots, including structures that cross an ownership line; and
- 2388 c. a change to any condition of approval for the subdivision that
2389 created the lot in the original subdivision.
- 2390 3. ownership lots may not be used to create the outside boundaries of a
2391 private road right-of-way parcel.]]

- 2392 E. Ownership Plat. An ownership plat may be recorded to delineate separate
 2393 ownership units within a lot approved for a commercial, industrial, or multi-
 2394 unit residential use as follows:
- 2395 1. Ownership units to reflect deed, mortgage, or lease lines may be
 2396 created by an ownership plat if:
- 2397 a. the lot on which the ownership units are created is included on
 2398 a plat approved by the Board and has site plan approval under
 2399 Section 59-7.3.4;
- 2400 b. the location and design of all structures on the ownership units
 2401 satisfy Chapters 8, 19, and 22;
- 2402 c. the ownership units do not violate any other provision of law or
 2403 adversely affect any conditions of approval for the subdivision
 2404 plan that created the underlying lot or for the site plan;
- 2405 d. any necessary cross easements, covenants, or other deed
 2406 restrictions necessary to implement all conditions of approval
 2407 are executed before recording the ownership plat; and
- 2408 e. the ownership units are suitable for the type of development,
 2409 the use contemplated, and the available utilities and services.
- 2410 2. Ownership units must be depicted on the ownership plat with metes
 2411 and bounds descriptions inside the boundary of the underlying lot as
 2412 shown on the record plat.
- 2413 3. Private roads may not be delineated as a separate ownership unit on an
 2414 ownership plat.
- 2415 4. No person can record an ownership plat, or sell any property with
 2416 reference to an ownership plat, until the plat has been approved by the
 2417 Board and recorded in the land records.
- 2418 5. The Board may apply conditions to the approval of an ownership plat.
- 2419 6. An ownership unit created under this section is not:

- 2420 a. a change to any condition of approval for the subdivision that
2421 created the lot in the original subdivision or the site plan; or
- 2422 b. used to establish building setbacks or to establish conformance
2423 with subdivision or zoning requirements.
- 2424 ~~[[E]]~~F. Plat of correction. A plat of correction may be used for any of the
2425 following:
- 2426 1. to correct inaccurate or incomplete information shown on a previously
2427 recorded plat, such as drafting or dimensional errors on the drawing;
2428 failure to include a required note, dedication, easement or other
2429 restriction; incorrect or omitted signatures; or other information
2430 normally required to be shown on a recorded plat. All owners and
2431 trustees of the land affected by the correction must sign the revised
2432 plat. In addition, the plat of correction must identify the original plat
2433 [[that is being replaced]] and contain a note identifying the nature of
2434 the correction;
- 2435 2. to revise easements to reflect a Board action;
- 2436 3. to improve clarity and legibility, the owner of any lands shown on a
2437 record plat may record an exact copy of the plat, except for necessary
2438 change of scale and the addition of any other necessary elements to
2439 make the plat conform to the requirements of this Chapter. The new
2440 plat must indicate that it is an exact copy of the original plat except for
2441 the changes made under this Subsection.
- 2442 ~~[[F]]~~G. Pre-1958 parcels. An unplatted parcel created by deed before June 1,
2443 1958, if the parcel is developable for only one detached house.
- 2444 ~~[[G]]~~H. Creation of a lot from a part of a lot. A part of a previously recorded
2445 lot in a Residential Detached zone that was created as a result of a deed
2446 transfer of land from the lot may be converted into a lot if:
- 2447 1. the part of lot was created by deed recorded before June 1, 1958, or
- 2448 2. the part of lot contains a legally constructed detached house; and

2449 3. all conditions or agreements applicable to the subdivision approval
2450 creating the original lot apply to the new lot. The conditions and
2451 agreements may include, but are not limited to, any adequate public
2452 facilities agreement, conservation easement or building restriction
2453 lines.

2454 I. Unplatted Parcels With Existing Houses. In the R-90 and R-60 zones,
2455 an unplatted parcel containing an existing house may be converted
2456 into a lot under the minor subdivision procedure if:

2457 1. any required road dedication along the frontage of the proposed
2458 lot is shown on the record plat;

2459 2. there is adequate sewerage and water service to the property;
2460 and

2461 3. the principal use of the property is single-unit living and any
2462 new construction on the lot is limited to a detached house.

2463 **Section 7.2. Procedure for Platting Minor Subdivisions**

2464 The subdivider of a property that satisfies the requirements for a minor subdivision
2465 under Section 7.1 may submit an application for record plat for approval under
2466 Section 8.1 and Section 8.2.

2467 A. Additional considerations.

2468 1. In the case of minor subdivisions, no additional improvements beyond
2469 those required for the original subdivision are required until [[new]]
2470 development in excess of development in the original approval occurs.

2471 2. Any lot created through the minor subdivision process and any lot
2472 replatted as part of a minor lot line adjustment must satisfy all
2473 applicable zoning requirements in Chapter 59.

2474 **Article III. Plats**

2475 **Division 50.8. Plats – Generally**

2476 All subdivision of land must be recorded by plat in the County Land Records. The
2477 Clerk of the Circuit Court must only record plats approved under this Chapter.

2478 **Section 8.1. Filing and Specifications**

2479 All boundaries, road right-of-way lines, lot lines, and any other pertinent lines must
2480 be shown together with sufficient data to locate each line and property corner on
2481 the ground.

2482 A. *Application and fee.* The subdivider must file the plat drawing with the
2483 Board, together with the application form, supporting information, and the
2484 required plat fee. Any fees required by other County agencies in connection
2485 with their review of plats must also be paid.

2486 B. *Specifications.*

2487 1. The plat accompanying the application for approval must satisfy
2488 Section 8.1.C. The lack of information under any item specified or
2489 inadequate information supplied by the applicant may cause the Board
2490 to disapprove a plat.

2491 2. The Board may approve guidelines for the preparation of a record
2492 plat.

2493 C. *Plat drawing.* The plat drawing prepared with the application must be an 18-
2494 inch by 24-inch sheet, including a margin of one-half inch outside ruled
2495 border lines. It must be accurately drawn to a scale approved by the Board
2496 and must include the following:

2497 1. *Title block.* The title block must appear in the lower right corner of the
2498 sheet and must include the following information:

2499 a. the words “Subdivision Record Plat”;

2500 b. approved name of the subdivision and the Section thereof,
2501 including blocks, lots, parcels, and outlots;

2502 c. election district, County and State, or name of town instead of
2503 election district, if the subdivision is in an incorporated town;

- 2504 d. scale of drawing;
- 2505 e. name of firm of licensed land surveyor who prepared the plat
- 2506 and date of completion; and
- 2507 f. a description of the general purpose of the plat, including,
- 2508 without limitation, plat of correction or resubdivision.

- 2509 2. Graphic details. The plat must show the following, as applicable in
- 2510 each case:

- 2511 a. all property boundary lines necessary to identify the property
- 2512 included in the subdivision, with a reference to the previous
- 2513 conveyance by which the property was acquired. Where the
- 2514 subdivision is a part of such conveyance, the boundaries shown
- 2515 must include the last complete line touched on by the
- 2516 subdivision or an indicated dimension describing the remainder
- 2517 of the complete line. Where a subdivision includes all or parts
- 2518 of 2 or more conveyances, the boundaries of such separate deed
- 2519 descriptions must be indicated by light lines running through
- 2520 the subdivision, together with deed reference to each original
- 2521 tract or unplatted parcel;

- 2522 b. locations, widths, and names of all road rights-of-way located
- 2523 in the subdivision;

- 2524 c. locations and widths of alley and mid-block pedestrian rights-
- 2525 of-way or parcels;

- 2526 d. Existing and proposed encumbrances.

- 2527 i. Existing. The area and recordation reference for recorded
- 2528 easements or rights-of-way established for public
- 2529 services, conservation purposes or utilities, and other
- 2530 known encumbrances;

- 2531 ii. Proposed. Sufficient dimensions to identify the location
- 2532 of all easements or rights-of-way to be established by the

- 2533 plat and, as to each such encumbrance, the general
2534 purpose, and the grantee;
- 2535 iii. *Environmental.* Description of any conservation
2536 easement, in addition to any 100-year floodplain and
2537 100-year floodplain building restriction line required
2538 under Chapter 19, Article III;
- 2539 e. any areas to be reserved for common use by residents of the
2540 subdivision or for general public use, with the purposes
2541 indicated;
- 2542 f. bearings and lengths of all block and lot lines, together with the
2543 length of radii, arcs, and chords with chord bearings and central
2544 angles for all curves in the layout. A curve table must be used
2545 containing these data and referenced to the overall curves
2546 shown in the drawing.
- 2547 i. All bearings shown on plats must be referenced to the
2548 Maryland Coordinate System, and the survey must be
2549 accurately referenced to such system using conventional
2550 survey methods or other technology acceptable to the
2551 Board, except that a plat of resubdivision requiring no
2552 preliminary plan approval and plats of correction may be
2553 referenced to the plat meridian used on the original
2554 record plat; and
- 2555 ii. in all cases, the meridian used must be noted alongside
2556 the north arrow, which is required to be shown on each
2557 plat;
- 2558 g. Maryland coordinate values, tied to the Maryland Coordinate
2559 System, for at least 4 corners of the plan of subdivision shown
2560 on the plat, unless the survey is referenced to a record plat
2561 meridian. The identification names or numbers and coordinate
2562 values for the control stations used must be shown. Coordinate

- 2563 values and distance dimensions on plats must be expressed in
2564 feet, based on the United States Survey Foot;
- 2565 h. the location and nature of existing property corner markers
2566 found that coincide with property corners held referenced on
2567 the plat must be labeled as such;
- 2568 i. lots numbered in sequential order. In tracts containing more
2569 than one block, the blocks must be lettered in alphabetical
2570 order. In case there is a resubdivision of lots in any block, such
2571 resubdivided lots must be numbered sequentially, beginning
2572 with the number following the highest lot number in the block
2573 and the original lot lines shown dashed and original lot numbers
2574 shown dotted;
- 2575 j. area in square feet, or other units shown on the plat, of each lot,
2576 outlot, parcel, or land dedicated to public use;
- 2577 k. building setback lines, shown [[graphically]] with dimensions,
2578 where they exceed the minimum required in Chapter 59, and
2579 any other building restriction lines that may apply;
- 2580 l. bearings and lengths of tie connections between all blocks and
2581 the plat boundary;
- 2582 m. names and locations of adjoining subdivisions with lot and
2583 block numbers of immediately adjoining lots, together with plat
2584 references;
- 2585 n. location and apparent ownership of adjoining unsubdivided
2586 property with land record reference, or County Register of
2587 Wills or equity case references;
- 2588 o. vicinity map showing location of subdivision, with roads in the
2589 immediate proximity labeled. In the case of a large subdivision
2590 requiring multiple plats, a key map must be included to show
2591 the location of the plat relative to the entire subdivision;
- 2592 p. bar scale;

- 2593 q. a note stating that the lots shown will have public water and
2594 sewer, or have been approved by the [[County]] Department of
2595 Permitting Services for the installation of individual water
2596 supply systems or individual sewerage disposal systems;
- 2597 r. for lots developed using transferable development rights, a
2598 statement concerning the number of development rights
2599 transferred and the following information:
- 2600 i. the number of development rights transferred and the
2601 serial numbers of the development rights transferred;
- 2602 ii. liber and folio reference to the transfer of development
2603 rights easement; and
- 2604 iii. a notation of the recordation reference of a conveyance
2605 required by Section 59-4.9.15, as amended;
- 2606 s. file number of the preliminary plan and, as applicable, the file
2607 numbers of the site plan and project or sketch plan upon which
2608 the plat is based;
- 2609 t. tax map reference;
- 2610 u. a table containing the total number and area in square feet of
2611 lots, outlots, or parcels included on the plat and areas dedicated
2612 to public use; and
- 2613 v. any other element for inclusion on the plat that is authorized by
2614 law or regulation or required by the Board.
- 2615 3. Surveyor certificate. Certificate by the licensed land surveyor in a
2616 form required by the Board, certifying to the accuracy of the plat and
2617 to areas included on the plat and dedicated to public use. The
2618 certificate must also include conveyance information with recording
2619 references of the lands contained in the plat.
- 2620 4. Owner's Certificate. Certificate by the owner and all parties of
2621 interest, in a form required by the Board, adopting the plat; granting

- 2622 slope, utility, conservation, or any other easements; and establishing
 2623 building restriction lines that are required to be drawn or noted on the
 2624 plat per the conditions of the approved Preliminary Plan or
 2625 Administrative Subdivision Plan and dedicating to public use roads,
 2626 alleys, rights-of-way, and any other areas approved for dedication to
 2627 public use by the Board. The owner must certify that a licensed land
 2628 surveyor will be engaged to set all property corner markers under
 2629 Subsection 4.3.G.
- 2630 5. Title information notice. A statement indicating that the plat does not
 2631 show every matter affecting or restricting the ownership and use of
 2632 the property, and does not replace an examination of title or that it
 2633 notes all matters affecting title.
- 2634 6. Approval box. An approval box in a form required by the Board must
 2635 be provided. The box must provide approval space for signatures by
 2636 the Board and the [[County]] Department of Permitting Services.
- 2637 D. Multiple plats for a single subdivision. A plat may include only a portion of
 2638 the approved preliminary plan if the portion covered is in substantial
 2639 compliance with the approved staging schedule. The public improvements to
 2640 be constructed in the area covered by the plat must be sufficient by
 2641 themselves to support the development and to provide adequately for the
 2642 health, safety, and convenience of the present and future residents and for
 2643 adequate access to contiguous areas, schools, and other public sites. Any plat
 2644 filed under this Subsection must show any dedication to the intersection of
 2645 all roads abutting corner lots or any other road.
- 2646 E. Other supporting information. The following supporting information is also
 2647 required with the plat application.
- 2648 1. Documents and plans. The following documents and plans must be
 2649 submitted:
- 2650 a. copies of all resolutions of approved sketch, project,
 2651 preliminary, and site plans upon which the plat is based;

- 2652 b. copies of any covenants, restrictions, or joint-use and
2653 maintenance agreements that are in effect or may be recorded as
2654 part of the subdivision must be filed with the Board, together
2655 with any other supporting plans or documents required under
2656 this Chapter and Chapter 22A;

- 2657 c. copies of approved, preliminary, or final forest conservation
2658 plan, as appropriate, or exemption letter; and

- 2659 d. such other information required by the applicable resolutions of
2660 the Board as a condition of approval of the preliminary plan,
2661 project plan, sketch plan, or site plan or listed in the plat
2662 application form.

- 2663 2. *Preliminary plans using transferable development rights (TDRs).* For
2664 a subdivision designated in sewer category 3 conditioned upon
2665 approval of a preliminary plan that uses TDRs, a new plat using less
2666 than the requisite number of TDRs may not be approved until the
2667 sewer category has been reconfirmed by the Council.

- 2668 3. *Submission of digital plat data.* Digital plat data must be submitted in
2669 a format approved by the Director.

- 2670 4. *Plat for a cluster subdivision.*

- 2671 a. Any plat for a cluster subdivision must be accompanied by
2672 covenants, agreements, or other documents showing the
2673 ownership and method of maintenance and uses of areas that
2674 are declared to be open space for common use. Development,
2675 construction, or other rights in the open space areas must be
2676 limited to the indicated recreational or scenic uses only. Public
2677 access to these areas may be limited. Covenants or agreements
2678 must be in perpetuity and must include necessary public utility
2679 easements.

- 2680 b. Plats may be submitted in phases; however, density on any one
2681 plat may not exceed 115 percent of the allowed density of the
2682 area included on the plat.

2683 c. Plats must contain a statement that the land shown on the plat
2684 lies within an approved cluster subdivision and resubdivision
2685 that would result in the creation of additional lots is not
2686 permitted after the property is platted.

2687 d. Covenants or joint use and maintenance agreements affecting
2688 the common lands must be recorded simultaneously with the
2689 plat.

2690 F. Application processing.

2691 1. The applicant must submit a plat application to the Director. The
2692 Director must review the application for completeness within 5 days
2693 after receipt. An application is incomplete if any required element is
2694 missing. The assessment of completeness must not address the
2695 accuracy of any of the elements or the merits of the application. The
2696 Director has the authority to reject the plat application if it does not
2697 contain the required information. The rejection must be in writing and
2698 specify the deficiencies.

2699 2. The applicant must resubmit a revised plat application within 10 days
2700 from the date of the written rejection, or the application will be
2701 automatically withdrawn.

2702 **Section 8.2. Approval Procedure**

2703 A. Referral of the plat application. After accepting a plat application, the
2704 Director must begin review and send a copy to each agency that has review
2705 authority for roads, utilities, or other public services that will serve the
2706 proposed subdivision, for the agency's recommendation concerning the plat.

2707 B. Review and recommendation. The Director and other reviewing agencies
2708 must submit final recommendation on the plat application within 90 days
2709 after the date the application is accepted.

2710 C. Plat to comply with approved preliminary plan and site plan where
2711 required.

- 2712 1. With the exception of a minor subdivision, as defined in this Chapter,
 2713 no plat may be approved unless it complies with [[the]] an approved
 2714 preliminary plan [[as approved by the Board]] or an administrative
 2715 subdivision plan; however, the Board may allow for minor
 2716 modifications from [[the preliminary plan]] these plans which, in its
 2717 opinion, do not alter the intent of [[its]] previous approval.
- 2718 2. In those situations where a site plan is required, the Board may refuse
 2719 to approve a plat until a site plan is approved under Section 59-7.3.4.
 2720 Changes made to the lot layout of an approved preliminary plan as
 2721 part of a site plan approval may be included on the plat without the
 2722 need for amendment of the preliminary plan.
- 2723 D. *Road and storm drain plans.* Before submitting a final plat, the applicant
 2724 must obtain approval from the appropriate agency for the following plans:
- 2725 1. final grade and profile plan for roads and pedestrian paths, except
 2726 where the grades of the roads have already been established; and
- 2727 2. a storm drainage concept plan.
- 2728 E. *Final plat.* The applicant must submit a final plat legibly printed in black ink
 2729 on a permanent, reproducible medium acceptable to the Director that
 2730 incorporates the recommendations of the reviewing agencies.
- 2731 F. *Planning Board to act within 30 days.* The Board must act to approve or
 2732 disapprove a final plat within 30 days after its submittal; otherwise, the plat
 2733 will be deemed approved. The applicant may waive this requirement and
 2734 consent to an extension. If the plat is disapproved, the reasons must be stated
 2735 in the minutes of the Board and provided to the applicant.
- 2736 G. *Planning Board may hold hearing on any plat.* The Board may, upon its
 2737 own motion, hold a hearing before acting upon any plat, with notice required
 2738 by the Board's Rules of Procedure.
- 2739 H. *Planning Board may give conditional approval.* In the case of a plat
 2740 requiring additional supporting data, the Board may give conditional

2741 approval, requiring the applicant to provide the Board with the supporting
2742 data.

2743 I. Signing. A plat must be signed by applicable County agencies with review
2744 authority before Board action on the plat, unless the Board specifically
2745 permits the signature to be added as a condition of its approval. The plat
2746 must be signed by the authorized officers of the Board after the Board acts to
2747 approve the plat or, in cases of conditional approval, when the conditions are
2748 satisfied.

2749 **Section 8.3. Recording Procedure**

2750 A. Processing of plats.

2751 1. The Planning Department Staff must reproduce a sufficient number of
2752 copies of an original approved plat for applicable local agencies and
2753 the plat preparer.

2754 2. The official seal of the licensed land surveyor who prepared the plat
2755 must be impressed upon the original approved plat and reproductions.

2756 B. Recordation. The reproductions required by the Clerk of the Circuit Court
2757 must be transmitted with the appropriate recording fee within 7 days
2758 following completion of processing for recordation in the land records. Once
2759 recorded, the original approved plat must be filed in the vault provided by
2760 the Commission and remain there, unless required by court order as an
2761 exhibit.

2762 C. Indexing. The Clerk of the Circuit Court must record the plat and enter it in
2763 the general index of the land records. All plats filed and recorded must be
2764 indexed both in the name of the subdivision and in the name of the owners
2765 signing the plat.

2766 D. Effect of filing. Plats, when filed and recorded under this Chapter, constitute
2767 a part of the land records of the County and have the same effect as properly
2768 recorded deeds.

2769 **Section 8.4. Abandonment of Land Dedicated for Public Use**

2770 A. Land dedicated to the County for public use. When a record plat contains
2771 land dedicated to the County for public use, the dedication must be in
2772 perpetuity and must not be altered or taken for private use. However, the
2773 person who originally filed the plat, any successor in interest, or the County
2774 may petition to abandon any land dedicated under this [[Subsection]]
2775 Section. Abandonment of all or part of the dedicated land may be authorized
2776 by:

- 2777 1. the Council under Section 49-63, if the land has been in public use; or
- 2778 2. the Board under Section 49-68, if the land has not been in public use.

2779 B. Land dedicated to other public entity. Land dedicated to a public entity other
2780 than the County, including the Commission, may be abandoned according to
2781 procedures adopted by or applicable to that public entity.

2782 **Article IV. Administration**

2783 **Division 50.9. Waivers from this Chapter**

2784 **Section 9.1. Authority of Planning Board**

2785 The Board may grant a waiver from a requirement of this Chapter after making the
2786 required findings.

2787 **Section 9.2. Application**

2788 A request for a waiver must be submitted to the Board in writing, stating all facts
2789 supporting approval of a waiver.

2790 **Section 9.3. Findings**

2791 A. To grant a waiver, the Board must find that:

- 2792 1. due to practical difficulty or unusual circumstances of a plan, the
2793 application of a specific requirement of the Chapter is not needed to
2794 ensure the public health, safety, and general welfare;
- 2795 2. the intent of the requirement is still met; and
- 2796 3. the waiver is:

- 2797 a. the minimum necessary to provide relief from the requirements;
- 2798 and
- 2799 b. consistent with the purposes and objectives of the General Plan.

2800 **Section 9.4. Conditions**

2801 The Board may condition the waiver approval.

2802 **Section 9.5. Procedure for Granting Waivers**

- 2803 A. Referral for recommendations. The Director must send a copy of each
- 2804 waiver request to the applicable Development Review Committee agencies
- 2805 for investigation, report, and written recommendation before acting on the
- 2806 request. For waivers requested as part of a preliminary plan, administrative
- 2807 preliminary plan, or pre-application submission, ~~[[Those]]~~ those agencies
- 2808 must submit any report and recommendation on the waiver in the timeframes
- 2809 required for those plans. For separate waiver requests, final recommendation
- 2810 must be provided to the Director within ~~[[20]]~~ 30 days after receiving the
- 2811 request, or the recommendation must be treated as favorable.

- 2812 B. The Director must publish a report and recommendation at least 10 days
- 2813 before the scheduled Board hearing. A waiver request filed under this
- 2814 Section may be used as grounds for a request to extend the time
- 2815 requirements in Sections 4.2 and 8.2.

- 2816 C. Resolution. The Board must make its decision by resolution.

- 2817 D. Non-waiver of other ordinances. When granting a waiver, the Board must
- 2818 not change any other requirement of law.

2819 **Division 50.10. Administrative Procedures**

2820 **Section 10.1. Regulations**

2821 The Board may adopt regulations and necessary procedures under Chapter 2A,

2822 Section 15, Method (2) to administer this Chapter.

2823 **Section 10.2. Bonding and Surety**

- 2824 A. Guarantee of completion of improvements before recording final plat.

- 2825 1. Before plat recordation, the Board or applicable public agency must
2826 certify that the subdivider has obtained the necessary permits and
2827 bonds or provided other surety that ensures completion of all required
2828 public and private improvements on the land covered by the plat being
2829 recorded.

- 2830 2. As an alternative to the requirements of Subsection 10.2.A.1, if
2831 approved by the applicable public agency, a public improvement
2832 agreement may be executed between the applicant and the agency to
2833 ensure completion of public improvements.

- 2834 3. When the subdivider or developer is required by regulations of the
2835 WSSC to record a final plat dedicating public roads in excess of a
2836 current building phase to obtain installation of water and sewer to the
2837 site, surety as required by the Road Design and Construction Code for
2838 road improvements for such excess platting may be delayed under the
2839 approved timing sequence of the proposed development approved by
2840 the applicable County agency.

2841 **Section 10.3. Establishment of Adequate Public Facilities Guidelines**

- 2842 A. The Council must establish by resolution, after public hearing, the process to
2843 determine the adequacy of public facilities and services. A subdivision
2844 staging policy approved by the Council may serve this purpose if it contains
2845 those guidelines. To provide the basis for the Council resolution, the Board
2846 and the County Executive must provide the following information and
2847 recommendations to the Council:

- 2848 1. the Board must provide analyses of current growth and the amount of
2849 additional growth that can be accommodated by public facilities and
2850 services. The Board must also provide recommendations of any
2851 changes in preliminary plan approval criteria it deems appropriate;
2852 and

- 2853 2. the County Executive must provide comments on the Board’s
2854 analyses and recommendations and recommend criteria to determine
2855 the adequacy of public facilities.

2856 **Section 10.4. Establishment of a Development Review Committee**

2857 The Board must establish a review committee consisting of Planning Department
2858 Staff and staff of any County, State, and Federal agency; municipality; and utility
2859 companies to which a plan has been referred. The committee must meet with
2860 applicants and other interested persons to facilitate agency review of the plan, and
2861 may reconcile conflicting requirements by different agencies. Each reviewing
2862 agency must designate a representative to the committee. For the purpose of plan
2863 review, the head of any participating County agency must delegate authority to a
2864 representative to speak for the agency.

2865 **Section 10.5. Establishment of Fees**

2866 The Board must approve by resolution the fees necessary to cover the cost of
2867 administering this Chapter.

2868 **Section 10.6. Enforcement of Chapter**

2869 A. *Notice of violation.*

2870 1. The Director may issue a notice of violation to a person whom the
2871 Director believes committed a violation of a Planning Board Action or
2872 this Chapter. A notice of violation issued under this Subsection must
2873 be served on the alleged violator personally, on the alleged violator's
2874 agent at the site of the alleged violation, or by certified mail to the
2875 alleged violator's last known address.

2876 2. The notice of violation must contain at least the following
2877 information:

2878 a. the name of the person charged;

2879 b. the nature of the violation;

2880 c. the place where and the approximate date when the violation
2881 occurred; and

2882 d. a statement advising the alleged violator of the corrective or
2883 remedial action that must be taken and the date by which the
2884 corrective or remedial action must be completed. The corrective

2885 or remedial action may include a meeting with Planning
2886 Department Staff to establish a compliance plan.

2887 B. *Administrative citation.*

2888 1. The Director may deliver an administrative citation to a person whom
2889 the Director believes committed a violation of a Planning Board
2890 action or this Chapter. The Director must attest to the truth of the facts
2891 and allegations in the administrative citation. An administrative
2892 citation issued under this Subsection must be served on the alleged
2893 violator personally, on the alleged violator's agent at the site of the
2894 alleged violation, or by certified mail to the alleged violator's last
2895 known address.

2896 2. The administrative citation must contain at least the following
2897 information:

2898 a. the name and address of the person charged;

2899 b. the nature of the violation;

2900 c. the place where and the approximate date when the violation
2901 occurred;

2902 d. the amount of fine assessed;

2903 e. where, when, and to whom the fine may be paid; and

2904 f. a statement advising the violator of the right to a hearing before
2905 the Board or its designee.

2906 C. *Notice of hearing.*

2907 1. The Director may issue a notice of hearing to a person whom the
2908 Director believes committed a violation of a Planning Board Action or
2909 this Chapter. The notice of hearing must be served on the alleged
2910 violator personally, on the alleged violator's agent at the site of the
2911 alleged violation, or by certified mail to the alleged violator's last
2912 known address.

- 2913 2. The notice of hearing must contain at least the following information:
- 2914 a. the name of the person charged;
- 2915 b. the nature of the violation;
- 2916 c. the place where and the approximate date when the violation
2917 occurred; and
- 2918 d. a statement advising the alleged violator of the date, time, and
2919 location of the hearing before the Board or its designee.
- 2920 D. *Civil fine and penalty.*
- 2921 1. A citation may require the recipient to pay a civil fine for a violation
2922 of a Planning Board action.
- 2923 2. The fine for each violation of a Planning Board action is the
2924 maximum allowed by the Land Use Article §23-505 of the Maryland
2925 Code for each day that the violation continues.
- 2926 3 Each day that a violation has not been corrected is a separate
2927 violation, and the applicable fine may continue to accrue each day
2928 until the violation is corrected without issuing a new citation each day.
- 2929 4. In addition to any other remedy under this Article, a person who
2930 violates this Chapter, a Planning Board Action, any applicable
2931 regulation or any associated agreement or restriction may be subject to
2932 an administrative civil penalty. The administrative civil penalty must
2933 not exceed 150 percent of the estimated cost to bring the violation into
2934 compliance.
- 2935 5. In setting the amount of the administrative civil penalty, the Board or
2936 its designee must consider:
- 2937 a. the willfulness of the violation;
- 2938 b. the degree of deviation from the approved Planning Board
2939 action;
- 2940 c. the cost of any needed corrective action or restoration;

- 2941 d. any adverse impact on the immediate neighborhood and the
 2942 larger community;
- 2943 e. the extent to which the subject violation is part of a recurrent
 2944 pattern of the same or similar violations committed by the
 2945 violator;
- 2946 f. any economic benefit that accrued to the violator or any other
 2947 person as a result of the violation;
- 2948 g. the degree of cooperation shown, or voluntary mitigation
 2949 measures taken, by the violator;
- 2950 h. the extent to which any other person contributed to the
 2951 violation;
- 2952 i. the impact, if any, on the violator’s ability to perform corrective
 2953 actions because of a change in ownership of the property; and
- 2954 j. any other relevant factor.
- 2955 6. The Board, after a public hearing on the violation, must adopt a
 2956 resolution specifying the amount of any administrative civil penalty
 2957 and the Board’s reason for imposing the penalty.
- 2958 E. Nonpayment of fine.
- 2959 1. If a person who receives an administrative citation does not pay the
 2960 fine by the administrative citation’s due date or file a request for
 2961 hearing, a notice must be sent to the person's last known address. If
 2962 the administrative citation is not satisfied within 15 days after the
 2963 notice is issued, the recipient is liable for an additional fine, as
 2964 specified in the notice. The additional fine must be less than twice the
 2965 original fine.
- 2966 2. If the fine due is not paid within 35 days from the date the notice is
 2967 issued, the Board may schedule and hold a hearing.
- 2968 F. Hearing.

- 2969 1. A person who receives a citation imposing a civil fine may elect a
 2970 hearing before the Board or its designee by filing a written request for
 2971 hearing with the Director. The request for a hearing must be received
 2972 by the Director within 15 days after the administrative citation was
 2973 issued. The filing of a request for a hearing does not stay an
 2974 administrative order to stop work, stabilize a site, or stop a violation.
- 2975 2. If the Director receives a request to hold a hearing under this Article,
 2976 the Director must promptly schedule a hearing, unless the requestor
 2977 consents to a delay, and must issue a notice of hearing.
- 2978 3. The Board may assign a hearing officer, including a Hearing
 2979 Examiner from the Office of Zoning and Administrative Hearings, to
 2980 conduct a public hearing and submit a report and recommendation on
 2981 any alleged violation of this Chapter or a Planning Board action. The
 2982 hearing officer must submit the required report and recommendation
 2983 to the Board not later than 30 days after the hearing record closes. The
 2984 hearing officer may extend the time to file the report by notifying all
 2985 parties.
- 2986 4. After holding the hearing, the Board may impose any civil fine or
 2987 administrative civil penalty authorized by this Section, and also may:
- 2988 a. suspend or revoke the plan that is the subject of a Planning
 2989 Board Action;
- 2990 b. approve a compliance program that lists each remedial action
 2991 that must be taken;
- 2992 c. require the violator to post a bond or other surety to guarantee
 2993 completion of a compliance program;
- 2994 d. allow the violator to propose modifications to the plan; or
- 2995 e. take any combination of these actions.
- 2996 5. All fines, penalties, or forfeitures collected under this Section must be
 2997 remitted to the Board and placed in the general funds.

2998 6. The Board may spend funds from fines and penalties for project
2999 corrections, plan enforcement or, subject to Council appropriations,
3000 other Board purposes. The Board, in its sole discretion, may spend
3001 collected fines or penalties to perform or correct some or all violations
3002 noted in an administrative citation without obligating the Board,
3003 instead of the person responsible, to correct any violation.

3004 G. *Enforcement rules; conduct of hearing.*

3005 1. The Board must:

3006 a. adopt regulations to administer and enforce this Section as a
3007 method (2) regulation, subject to Council review under Chapter
3008 2A, Section 15; and

3009 b. conduct any proceeding under this Section as provided in those
3010 regulations.

3011 H. *Stop work order.*

3012 1. The enforcement agent may issue a stop work order if the
3013 enforcement agent reasonably finds that:

3014 a. a person is violating any element of a Planning Board Action;
3015 and

3016 b. the violation threatens or may threaten the public health, safety,
3017 or welfare.

3018 2. A stop work order must include the following information as
3019 applicable:

3020 a. the name and address of the person charged;

3021 b. the nature of the violation;

3022 c. the place where and the approximate date when the violation
3023 occurred; and

- 3024 d. a clear statement of the action that must be taken or
3025 discontinued to cure the violation, including any requirement to
3026 prepare a plan of compliance.
- 3027 3. The enforcement agent must attest to the truth of the facts and
3028 allegations in the order.
- 3029 4. The enforcement agent must prominently display the order near where
3030 the violation has occurred. In addition, the enforcement agent may
3031 deliver or mail a copy of the order to the last known address of the
3032 person who secured approval of the Planning Board Action.
- 3033 5. When a stop work order is posted, the recipient must immediately
3034 discontinue any further work activities until the order is rescinded. A
3035 stop work order suspends the Board approval of the entire underlying
3036 plan, unless:
- 3037 a. the Board approves phasing of the project; and
- 3038 b. the enforcement agent finds that the violation involves only:
- 3039 i. one or more phases of a project, but not other phases of
3040 the same project; or
- 3041 ii. activities on a single lot or parcel.
- 3042 In these instances, the order may only suspend the Board's
3043 approval as it relates to those phases or lots where the violation
3044 exists.
- 3045 6. The recipient of a stop work order may request a hearing to contest
3046 the validity of the order. If the enforcement agent finds that a hearing
3047 before the Board is not practical in a reasonable time, the Chair or
3048 Vice-Chair of the Board may review the order. A determination by the
3049 Chair or Vice-Chair has the same effect as if the Board reviewed the
3050 order. The Board or Chair, if applicable, must review the order *de*
3051 *novo*. If the violation is corrected and a plan of compliance prepared
3052 by the recipient of the order before the hearing is confirmed by the
3053 enforcement agent, the hearing must be cancelled.

- 3054 7. At the Board hearing, the enforcement agent must justify to the Board
 3055 the grounds and reasoning for issuing the order. The recipient must
 3056 explain why the order should be discontinued and may propose a plan
 3057 of compliance indicating how and when the violations will be
 3058 corrected. The Board must decide if the order should be continued,
 3059 modified, or rescinded, and if a plan of compliance should be
 3060 approved. The Board's decision that a stop work order must continue
 3061 [[revokes]] suspends any underlying Board approvals for the entire
 3062 project or any part of the project as the Board specifies until the
 3063 violation is corrected.
- 3064 8. A Board decision to continue or modify an order may be the subject
 3065 of a petition for judicial review to the Circuit Court under the rules for
 3066 the review of administrative agency actions.
- 3067 9. A stop work order must be rescinded when the Board or the
 3068 enforcement agent finds that all violations specified in the order have
 3069 been satisfactorily corrected, which determination must not be
 3070 unreasonably withheld, or the Board approves a compliance plan that
 3071 addresses any uncorrected violation.
- 3072 I. Other remedies. The authority in this Section to impose civil fines,
 3073 administrative civil penalties, and stop work orders is in addition to any
 3074 other authority of the Board to enforce its actions, including seeking
 3075 injunctive, declaratory, or other relief. The decision to pursue one remedy
 3076 does not preclude the Board from pursuing any other available remedy.
- 3077 J. Authority of the Office of the General Counsel. The General Counsel of the
 3078 Maryland-National Capital Park and Planning Commission may prosecute
 3079 and take any other necessary legal action regarding any violation under this
 3080 Section.
- 3081 K. Exclusive authority. The Board or its designee has exclusive authority to
 3082 enforce violations of a Planning Board action and any violations of this
 3083 Chapter. The authority granted in this Chapter supersedes any other
 3084 authority to enforce a Planning Board action granted to any other County or
 3085 State agency.

3086 **Section 10.7. Amendment of Chapter**

3087 **A. Procedures.** The procedures for amending Chapter 50 must satisfy Section
3088 23-104 of the Land Use Article, Maryland Code, and the Council Rules of
3089 Procedure.

3090 **B. Hearing.** A public hearing under the Council Rules of Procedure is required.

3091 **C. Expiration.** Any subdivision regulation introduced to amend this Chapter
3092 expires 18 months after its introduction if it is not approved.

3093

3094 **Sec. 3. Effective Date.**

3095 This amendment takes effect on February 13, 2017. The amendment applies to any
3096 Planning Board action after the effective date of this amendment.

3097

3098 **Sec. 4. Prior Approvals**

3099 The repeal of Chapter 50 does not affect the status of any preliminary plan or
3100 record plat approved by the Planning Board before the effective date of this
3101 amendment. Any violation of a Planning Board action, or the regulations
3102 governing the applicable approval, may be enforced under Section 10.6 of this
3103 amendment.

3104

3105 **Sec. 5. Filed Preliminary Plans**

3106 Any preliminary plan application filed and certified as complete before the
3107 effective date of this amendment may, at the applicant's option, be reviewed under
3108 the Subdivision Regulations in effect when the application was submitted.

3109

3110 *Approved:*

3111

3112

3113 Isiah Leggett, County Executive Date

3114 *This is a correct copy of Council action.*

3115

Linda M. Lauer, Clerk of the Council Date