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

By: Council President at the Request of the County Executive

AN AMENDMENT to the Subdivision Regulations to:

(1)   transfer certain functions to the Department of Transportation; and

(2)   generally amend the subdivision regulations regarding the abolition of the Department of Public Works and Transportation and creation of the Department of Transportation

By amending the following section of the Montgomery County Code, Chapter 50:

    Sections 50-24, 50-35, and 50-38

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

OPINION

Subdivision Regulation Amendment 08-01 was introduced on March 4, 2008, as one of three pieces of legislation necessary to implement the County Executive's proposed reorganization of the Department of Public Works and Transportation into new Departments of Transportation and General Services. The related legislation is Expedited Bill 4-08 and Zoning Text Amendment 08-03.

The County Planning Board recommended approval of the amendment to update references in current law to reflect the names of the new departments.

The subdivision regulation amendment was referred to the Transportation, Infrastructure, Energy, and Environment Committee for review and recommendation. The committee reviewed the subdivision regulations amendment at a worksession on April 14, 2008, and recommended approval of the subdivision regulation amendment.

The District Council held a public hearing on February 27, 1996, to receive testimony concerning the proposed subdivision regulations amendment.

The District Council reviewed Subdivision Regulation Amendment 08-01 at a worksession held on April 15, 2008, and agrees with the recommendation of the Transportation, Infrastructure, Energy, and Environment Committee.

For these reasons and because approving 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 08-01 is approved.

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 amended as follows:**

2 **50-24. Required public improvements**.

3   *   *   *

4   (i)   *Street lights*. The developer or subdivider must provide street lights under

5 [specifications, requirements, and] the standards [prescribed] required by the County

6 Department of [Public Works and] Transportation, except [for streets] if the street is

7 [where] on a preliminary [plans were] plan approved [on or] before December [15]

8 16, 1968, and the plat [thereof] was recorded [on or] before February [1] 2, 1969.

9 The Department of [Public Works and] Transportation may waive any requirement

10 under this subsection for any new subdivision that abuts a rustic road if the

11 requirement is incompatible with the rustic road, or may substitute any alternative

12 requirement that is consistent with the goals of the rustic roads law.

13   *   *   *

14 **50-35. Preliminary subdivision plan—Approval procedure.**

15   (a) *Referral of plan*. Immediately after receiving a proposed plan, the Director must

16 send a copy to each of the following agencies, if that agency has a direct interest in

17 the installation or maintenance of utilities, roads, or other public services that will

18 serve the proposed subdivision, for the agency's recommendation [with respect to]

19 concerning the plan.

20   *   *   *

21   (2) County Department of [Public Works and] Transportation, as to roads,

22 streets, paths, and storm drainage.

23   *   *   *

24   (d)   *Road grade and road profile*. Before the Board finally approves a preliminary plan,

25   the subdivider must furnish road and pedestrian path grades and a street profile

26   approved in preliminary form by the County Department of **[**Public Works and**]**

27   Transportation.

28   *   *   *

29   (f)   *Presentation of plan to Board*. Every preliminary plan must be presented to the

30   Board for its review and action at the earliest regular meeting after the staff has

31   completed its study and is ready to make its recommendation, **[**or communications

32   received concerning such plan. The staff must present the plan to the Board**]** but not

33   later than the first regular meeting which occurs after 60 days **[**have elapsed from the

34   date the Board receives the plan, plus any**]** after the staff accepted the application as

35   complete. Any extension of time granted for review by other agencies must be

36   added to the 60 days. The Board must take one of the following actions:

37   (1)   Approve, if **[**in accordance with**]** the plan conforms to the purposes and other

38   requirements of **[**these regulations**]** this Chapter.

39   (2)   Approve, **[**subject to**]** with any conditions or modifications necessary to

40   bring **[**the plan and**]** the proposed development into **[**accord**]** compliance

41   with all applicable **[**regulations**]** requirements. **[**When**]** If it approves a

42   preliminary plan for cluster or MPDU optional method development, the

43   **[**Planning**]** Board may require that, to resolve specific environmental or

44   compatibility issues, certain detached dwellings must not be included in an

45   application for a record plat until a site plan is approved**[**, as set forth in**]**

46   under Division 59-D-3, and as required in Sections 59-C-1.521 and 59-C-

47   1.63. Any modification of a road or grades must be approved by the County

48   Department of [Public Works and] Transportation.

49   *   *   *

50   (n)   In approving a preliminary plan or site plan, the [Planning] Board may, with the

51   [concurrence] consent of the [Department] Departments of [Public Works and]

52   Transportation and [the Department of] Permitting Services, require [construction

53   by] a developer [of] to provide a reasonable amount of off-site sidewalks or

54   sidewalk improvements. Off-site sidewalks or sidewalk improvements may be

55   required to provide [for one or more] necessary connections from the proposed

56   development to an existing sidewalk, an existing or proposed bus or other public

57   transit stop, or a public facility that either [existing] exists or is recommended in the

58   [adopted] area master plan [for the area], that the [Planning] Board finds will be used

59   by residents or users of the development, or for handicapped access. The developer

60   must not be required to obtain any right-of-way to build or improve a sidewalk.

61   *   *   *

62   **50-38. Waivers from [requirements of] this Chapter.**

63   *   *   *

64   (b)   *Procedure for granting variations*.

65   *   *   *

66   (2)   *Referral for Recommendation*. The Board must refer a copy of each request

67   to the Chief Planning Engineer, the Department of [Public Works and]

68   Transportation, the Washington Suburban Sanitary Commission, and the

69   Board of Education for investigation, report, and written recommendation

70   before acting on the request. Any report and recommendation must be

71 submitted to the Board within 30 days after the staff receives it, or the

72 recommendation must be treated as favorable. A request for a variation,

73 filed under this Section, [constitutes a waiver of] <u>waives</u> the time

74 requirements [set forth] in Sections 50-35 and 50-36 and extends the time

75 [permitted] for [such] review for 45 [additional] <u>more</u> days.

76   *   *   *

77   **Sec 2. Effective date.** This ordinance takes effect on July 1, 2008.

78 Approved:

79

80 _____

81 Isiah Leggett, County Executive   Date

82

83 This is a correct copy of Council action.

84

85 _____

86 Linda M. Lauer, Clerk of the Council   Date