

Ordinance No.: _____
Subdivision Regulation Amend. No. 08-03
Concerning: Arts or Entertainment Use –
Validity Period
Revised: _____ Draft No. 2
Introduced: June 24, 2008
Public Hearing: _____
Adopted: _____
Effective: _____

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

By: Council President at the Request of the County Executive

AN AMENDMENT to the Subdivision Regulations to:

- (1) provide for an extension of the validity period for an adequate public facilities determination for certain properties;
- (2) provide for the approval of a site plan to validate phases of a preliminary plan and project plan for certain properties under certain circumstances; and
- (3) provide for the recordation of a final record plat to validate all phases of a multi-phase preliminary plan for certain properties under certain circumstances.

By amending the following sections of Montgomery County Code Chapter 50:
Section 50-20. Limits on issuance of building permits.
Section 50-34. Preliminary subdivision plans—Filing and specifications.
Section 50-35. Preliminary subdivision plan—Approval procedure.

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

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., Sections 50-20, 50-34 and 50-35 are amended as follows:**

2 **50-20. Limits on issuance of building permits.**

3 * * *

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

6 * * *

7 (D) (i) For 10 years after the date of the conveyance of land
8 to the County, or possession of building space by the
9 County for an arts or entertainment use, under a
10 preliminary plan for an optional method of
11 development project approved under Section 59-C-
12 6.2356.

13 (ii) The Board must grant an application to extend the
14 validity period established under (D)(i) of this
15 subsection for an additional 5 years if:

16 a. at least 20% of the approved
17 development, excluding the arts or
18 entertainment use, either separately or in
19 combination:

- 20 1. has been built;
21 2. is under construction;
22 3. is subject to building permits that have
23 been issued;
24 4. is subject to a valid lease; or

25 5. has had a site plan approved under
26 Section 59-D-3; or

27 b. at any time during the 24 months before
28 the application for extension being filed,
29 the vacancy rate for class A office
30 buildings in the Central Business District
31 in which the project is located reaches
32 10% for direct and sublet space
33 combined, as measured by CoStar or a
34 similar commercial Multiple Listings
35 Service benchmark; or

36 c. the applicant makes a binding
37 commitment to the County to make a
38 contribution, as compensation for
39 potential loss of property tax revenues, an
40 amount equal to \$2 for each square foot
41 of approved gross floor area and
42 thereafter makes the contribution within 6
43 months of final approval of the extension.

44 (iii) The validity period is extended for the duration of
45 any government imposed moratorium, or other
46 government action resulting in a similar effect, that
47 would prevent the applicant from:

48 a. completing the regulatory approvals
49 necessary for obtaining a building permit;
50 or

51 b. obtaining a building permit.

52 (iv) If the applicant proposes to change a use in a project
53 that is approved under Section 59-C-6.2356 and the
54 new use would have the same or lesser impact as the
55 original determination of adequate public facilities,
56 the adequate public facilities approval for the project
57 remains valid.

58 * * *

59 **50-34. Preliminary subdivision plans—Filing and specifications..**

60 * * *

61 (h) Staging schedule for land containing an arts or entertainment use as a
62 public use space. If a phasing plan for a preliminary plan of
63 subdivision includes land or building space that the County has
64 accepted for an arts or entertainment use under Section 59-C-6.2356,
65 approval of a site plan under Section 59-D-3 for the phase containing
66 that land or building space validates all remaining phases of the
67 preliminary plan and the project plan for the purpose of Section 59-D-
68 2.7(b).

69 [(h)] (i) * * *

70 [(i)] (j) * * *

71 [(j)] (k) * * *

72 **Sec. 50-35. Preliminary subdivision plan—Approval procedure.**

73 * * *

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

75 * * *

76 (2) *Duration of Validity Period.*

77 * * *

78

79 (D) An approved preliminary plan for a multi-phase project
 80 that includes land or building space to be conveyed or
 81 dedicated to the County for an arts or entertainment use
 82 under Section 59-C-6.2356 is validated for all phases of
 83 the approved preliminary plan by recordation of a final
 84 record plat for all property in the phase containing the land
 85 or building space to be conveyed or dedicated to the
 86 County for an arts or entertainment use if recordation
 87 occurs within 5 years after the final approval of the
 88 preliminary plan. After approval, an amendment or
 89 modification to the phasing plan or the preliminary plan
 90 will not affect the validations, if the requirements of this
 91 subsection have otherwise been met.

92
 93 **Sec. 2. Effective Date.**

94 This Ordinance takes effect on the date of Council adoption.

95 *Approved:*

96
 97
 98 _____
 99 Isiah Leggett, County Executive Date

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

101
 102
 103 _____
 Linda M. Lauer, Clerk of the Council Date