

Subdivision Regulation Amendment No.: 13-01  
Concerning: Adequate Public Facilities–  
Preliminary Subdivision Plans–  
Validity Period  
Draft No. & Date: 1–1/29/13  
Introduced: February 5, 2013  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No:

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

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By: Councilmembers Floreen and Ervin, Council President Navarro, Council Vice President Rice, and Councilmembers Berliner, Leventhal, and Reimer

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**AN AMENDMENT to:**

- (1) extend the validity period for a determination of adequate public facilities for certain developments;
- (2) extend the validity period for certain preliminary subdivision plans; and
- (3) otherwise revise the validity period for certain developments.

By amending

Montgomery County Code  
Chapter 50, Subdivision of Land  
Sections 50-20 and 50-35

**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.*

**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:*

**Sec. 1. Section 50-20 and Section 50-35 are amended as follows:**

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

\* \* \*

(c) \* \* \*

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

(i) for 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;

(ii) for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after October 19, 1999, but before August 1, 2007;

(iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, [2013] 2015; and

(iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, [2013] 2015.

\* \* \*

(4) The Planning Board may extend a determination of adequate

27 public facilities for an exclusively residential subdivision  
28 beyond the otherwise applicable validity period if the  
29 Department has issued building permits for at least 50 percent  
30 of the entire subdivision before the application for extension is  
31 filed. The Board may approve one or more extensions if the  
32 aggregate length of all extensions for the development does not  
33 exceed:

34 (A) for a preliminary plan approved before April 1, 2009, or  
35 on or after April 1, [2013] 2015:

36 (i) 2½ years for a subdivision with an original validity  
37 period of 5 years; or

38 (ii) 6 years for a subdivision with an original validity  
39 period longer than 5 years; and

40 (B) for a preliminary plan approved on or after April 1, 2009,  
41 and before April 1, [2013] 2015:

42 (i) 2½ years for a subdivision with an original validity  
43 period of 7 years; or

44 (ii) 6 years for a subdivision with an original validity  
45 period longer than 7 years.

46 \* \* \*

47 **50-35. Preliminary subdivision plan-Approval procedure.**

48 \* \* \*

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

50 \* \* \*

51 (2) *Duration of Validity Period.*

52 (A) An approved preliminary plan for a single phase project

53 remains valid for 60 months after its Initiation Date for any  
54 preliminary plan approved on or after April 1, 2009, but  
55 before April 1, [2013] 2015, and for 36 months after its  
56 Initiation Date for any preliminary plan approved on or  
57 after April 1, [2013] 2015. Before the validity period  
58 expires, the applicant must have secured all government  
59 approvals necessary to record a plat, and a final record plat  
60 for all property delineated on the approved preliminary  
61 plan must have been recorded in the County land records.

62 (B) An approved preliminary plan for a multi-phase project  
63 remains valid for the period of time allowed in the phasing  
64 schedule approved by the Planning Board. The Planning  
65 Board must assign each phase a validity period on a case-  
66 by-case basis, the duration of which the applicant must  
67 propose as part of an application for preliminary plan  
68 approval, revision, or amendment, after considering such  
69 factors as the size, type, and location of the project. The  
70 time allocated to any phase must not exceed 60 months  
71 after the initiation date for that particular phase for any  
72 preliminary plan approved on or after April 1, 2009, but  
73 before April 1, [2013] 2015, and 36 months after the  
74 initiation date for that particular phase for any preliminary  
75 plan approved on or after April 1, [2013] 2015. The  
76 cumulative validity period of all phases must not exceed  
77 the APFO validity period which begins on the date of the  
78 initial preliminary plan approval, including any extension

79 granted under Section 50-20(c)(5). A preliminary plan for  
80 a phase is validated when a final record plat for all  
81 property delineated in that phase of the approved  
82 preliminary plan is recorded in the County land records.

83 \* \* \*

84 **Sec. 2. Effective Date.** This amendment takes effect on April 1, 2013.

85 **Sec. 3. Automatic Extensions.**

86 (a) Notwithstanding any provision of Section 50-20(c) to the contrary, the  
87 validity period of any determination of adequate public facilities that  
88 was valid on March 31, 2009, or for which a timely application for an  
89 extension of the validity period was pending on March 31, 2009, is  
90 automatically extended for 6 years after the date when the validity  
91 period would otherwise have expired. This 6-year extension includes  
92 any extension granted automatically by any previous subdivision  
93 amendment and must be treated for all purposes as part of the validity  
94 period that was extended.

95 (b) Notwithstanding any provision of Section 50-35(h) to the contrary, the  
96 validity period of any preliminary subdivision plan that was valid on  
97 March 31, 2009, or for which a timely application for an extension of  
98 the validity period was pending on March 31, 2009, including any  
99 separate phase of a multi-phase plan, is automatically extended for 6  
100 years after the date when the validity period would otherwise have  
101 expired. This 6-year extension includes any extension granted  
102 automatically by any previous subdivision amendment and must be  
103 treated for all purposes as part of the validity period that was extended.

104 (c) Notwithstanding any provision of Section 50-20(c) to the contrary, the

105 validity period of any determination of adequate public facilities that  
106 was valid on March 31, 2013, or for which a timely application for an  
107 extension of the validity period was pending on March 31, 2013, is  
108 automatically extended for 2 years after the date when the validity  
109 period would otherwise have expired. This 2-year extension must be  
110 treated for all purposes as part of the validity period that was extended.

111 (d) Notwithstanding any provision of Section 50-35(h) to the contrary, the  
112 validity period of any preliminary subdivision plan that was valid on  
113 March 31, 2013, or for which a timely application for an extension of  
114 the validity period was pending on March 31, 2013, including any  
115 separate phase of a multi-phase plan, is automatically extended for 2  
116 years after the date when the validity period would otherwise have  
117 expired. This 2-year extension must be treated for all purposes as part  
118 of the validity period that was extended.

119 *Approved:*

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121 \_\_\_\_\_  
Isiah Leggett, County Executive Date

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

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