

Subdivision Regulation Amendment No.: 15-01  
Concerning: Adequate Public Facilities –  
Preliminary Subdivision Plans –  
Validity Period  
Draft No. & Date: 1 – 2/19/15  
Introduced: March 3, 2015  
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: Council President Leventhal and Councilmembers Floreen, Navarro, Rice and Katz

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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  
Section 50-20 “Limits on the Issuance of Building Permit”  
Section 50-35 “Preliminary Subdivision Plan-Approval Procedure”

<b>Boldface</b>	<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>

**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 is 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, [2015] 2017; 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, [2015] 2017.

\* \* \*

(4) The Planning Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the

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

33 (A) for a preliminary plan approved before April 1, 2009, or on or  
34 after April 1, [2015] 2017:

35 (i) 2 ½ years for a subdivision with an original validity  
36 period of 5 years; or

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

39 (B) for a preliminary plan approved on or after April 1, 2009, and  
40 before April 1, [2015] 2017:

41 (i) 2 ½ years for a subdivision with an original validity  
42 period of 7 years; or

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

45 \* \* \*

46 **Sec. 2. Section 50-35 is amended as follows:**

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 before

55 April 1, [2015] 2017, and for 36 months after its Initiation Date  
56 for any preliminary plan approved on or after April 1, [2015]  
57 2017. Before the validity period expires, the applicant must  
58 have secured all government approvals necessary to record a  
59 plat, and a final record plat for all property delineated on the  
60 approved preliminary plan must have been recorded in the  
61 County land records.

62 (B) An approved preliminary plan for a multi-phase project remains  
63 valid for the period of time allowed in the phasing schedule  
64 approved by the Planning Board. The Planning Board must  
65 assign each phase a validity period on a case-by-case basis, the  
66 duration of which the applicant must propose as part of an  
67 application for preliminary plan approval, revision, or  
68 amendment, after considering such factors as the size, type, and  
69 location of the project. The time allocated to any phase must  
70 not exceed 60 months after the initiation date for that particular  
71 phase for any preliminary plan approved on or after April 1,  
72 2009, but before April 1, [2015] 2017, and 36 months after the  
73 initiation date for that particular phase for any preliminary plan  
74 approved on or after April 1, [2015] 2017. The cumulative  
75 validity period of all phases must not exceed the APFO validity  
76 period which begins on the date of the initial preliminary plan  
77 approval, including any extension granted under Section 50-  
78 20(c)(5). A preliminary plan for a phase is validated when a  
79 final record plat for all property delineated in that phase of the  
80 approved preliminary plan is recorded in the County land  
81 Records.

82 \* \* \*

83 **Sec. 3. Effective Date.**

84 This amendment takes effect nunc pro tunc on March 31, 2015.

85 **Sec. 4. 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 was  
88 valid on March 31, 2009, or for which a timely application for an extension  
89 of the validity period was pending on March 31, 2009 is automatically  
90 extended for 8 years after the date when the validity period would otherwise  
91 have expired. This 8-year extension includes any extension granted  
92 automatically by any previous subdivision amendment and must be treated  
93 for all purposes as part of the validity period that was extended.

94 (b) Notwithstanding any provision of Section 50-35(h) to the contrary, the  
95 validity period of any preliminary subdivision plan that was valid on March  
96 31, 2009, or for which a timely application for an extension of the validity  
97 period was pending on March 31, 2009, including any separate phase of a  
98 multi-phase plan, is automatically extended for 8 years after the date when  
99 the validity period would otherwise have expired. This 8-year extension  
100 includes any extension granted automatically by any previous subdivision  
101 amendment and must be treated for all purposes as part of the validity period  
102 that was extended.

103 (c) Notwithstanding any provision of Section 50-20(c) to the contrary, the  
104 validity period of any determination of adequate public facilities that was  
105 valid on March 31, 2011, or for which a timely application for an extension  
106 of the validity period was pending on March 31, 2011, is automatically  
107 extended for 6 years after the date when the validity period would otherwise  
108 have expired. This 6-year extension includes any extension granted

109 automatically by any previous subdivision amendment and must be treated  
110 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 March  
113 31, 2011, or for which a timely application for an extension of the validity  
114 period was pending on March 31, 2011, including any separate phase of a  
115 multi-phase plan, is automatically extended for 6 years after the date when  
116 the validity period would otherwise have expired. This 6-year extension  
117 includes any extension granted automatically by any previous subdivision  
118 amendment and must be treated for all purposes as part of the validity period  
119 that was extended.

120 (e) Notwithstanding any provision of Section 50-20(c) to the contrary, the  
121 validity period of any determination of adequate public facilities that was  
122 valid on March 31, 2013, or for which a timely application for an extension  
123 of the validity period was pending on March 31, 2013, is automatically  
124 extended for 4 years after the date when the validity period would otherwise  
125 have expired. This 4-year extension includes any extension granted  
126 automatically by any previous subdivision amendment and must be treated  
127 for all purposes as part of the validity period that was extended.

128 (f) Notwithstanding any provision of Section 50-35(h) to the contrary, the  
129 validity period of any preliminary subdivision plan that was valid on March  
130 31, 2013, or for which a timely application for an extension of the validity  
131 period was pending on March 31, 2013, including any separate phase of a  
132 multi-phase plan, is automatically extended for 4 years after the date when  
133 the validity period would otherwise have expired. This 4-year extension  
134 includes any extension granted automatically by any previous subdivision

135 amendment, and must be treated for all purposes as part of the validity  
136 period that was extended.

137 (g) Notwithstanding any provision of Section 50-20(c) to the contrary, the  
138 validity period of any determination of adequate public facilities that was  
139 valid on March 31, 2015 or for which a timely application for an extension  
140 of the validity period was pending on March 31, 2015, is automatically  
141 extended for 2 years after the date when the validity period would otherwise  
142 have expired. This 2-year extension must be treated for all purposes as part  
143 of the validity period that was extended.

144 (h) Notwithstanding any provision of Section 50-35(h) to the contrary, the  
145 validity period of any preliminary subdivision plan that was valid on March  
146 31, 2015, or for which a timely application for an extension of the validity  
147 period was pending on March 31, 2015, including any separate phase of a  
148 multi-phase plan, is automatically extended for 2 years after the date when  
149 the validity period would otherwise have expired. This 2-year extension  
150 must be treated for all purposes as part of the validity period that was  
151 extended.

152 **Sec. 5. Repeal of prior uncodified provisions.**

153 The uncodified provisions of Ordinance Numbers 16-35, 17-04, and 17-31 are  
154 repealed.

155 *Approved:*

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158 \_\_\_\_\_  
Isiah Leggett, County Executive

\_\_\_\_\_ Date

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

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Linda M. Lauer, Clerk of the Council

Date