

Subdivision Regulation Amendment No.: 17-01
Concerning: Approval Procedures – Burial sites
Draft No. & Date: 2 – 6/2/17
Introduced:
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**

Lead Sponsors: Councilmember Rice, Council President Berliner, and
Councilmember Leventhal

AN AMENDMENT to:

- 1) define burial sites;
- 2) require the identification of burial sites on preliminary plan applications;
- 3) require approved preliminary plans to appropriately preserve burial sites; and
- 4) generally add provisions to protect and preserve burial sites in the subdivision approval process.

By amending

Montgomery County Code
Chapter 50 Subdivision of Land
Section 50.2 “Interpretations and Defined Terms”
Section 50.4 “Preliminary Plan”

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>

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 * * *

3 **Division 50.2. Interpretation and Defined Terms**

4 **Section 2.2. Definitions**

5 All terms used in this Chapter that are defined in Chapter 59 or Chapter 49 have the
6 same meanings as the definitions in those Chapters, unless otherwise defined here.

7 In this Chapter, the following words and phrases have the meanings indicated.

8 * * *

9 B.

10 * * *

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

13 Burial site: A physical location where human remains were buried in the earth, or
14 entombed in a mausoleum or columbarium. A burial site includes a cemetery, but
15 does not include the sprinkling of ashes from cremated remains.

16 * * *

17 **Article II. Subdivision Plans**

18 **Division 50.4. Preliminary Plan**

19 Except for an administrative or minor subdivision submitted under Divisions 50.6
20 and 50.7, the subdivider must submit a proposed subdivision to the Board for
21 approval in the form of a preliminary plan before the submission of a plat. The plan

22 must show graphically, and supporting documents must demonstrate, the data
23 needed for the Board to make the findings required by this Article.

24 **Section 4.1. Filing and Specifications**

25 * * *

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

29 * * *

30 7. graphic representation of the proposed subdivision, including:

31 * * *

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

34 k. all existing topography, structures, and paving on adjoining
35 properties within 100 feet.

36 l. location of any burial sites included in the Montgomery County
37 Cemetery Inventory.

38 * * *

39 **Section 4.2. Approval Procedure**

40 * * *

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

- 42 1. the layout of the subdivision, including size, width, shape, orientation
43 and density of lots, and location and design of roads is appropriate for
44 the subdivision given its location and the type of development or use
45 contemplated and the applicable requirements of Chapter 59;
- 46 2. the preliminary plan substantially conforms to the master plan;
- 47 3. public facilities will be adequate to support and service the area of the
48 subdivision;
- 49 4. all Forest Conservation Law, Chapter 22A requirements are satisfied;
- 50 5. all stormwater management, water quality plan, and floodplain
51 requirements of Chapter 19 are satisfied; [and]
- 52 6. any burial site included in the Montgomery County Cemetery Inventory
53 and located within the subdivision, is approved under Subsection 50-
54 4.3.M; and
- 55 [6.]7. any other applicable provision specific to the property and necessary
56 for approval of the subdivision is satisfied.

57 * * *

58 **Section 4.3. Technical Review**

59 In making the findings under Section 4.2.D, the Board must consider the following
60 aspects of the application.

61 * * *

62 M. Burial sites

- 63 1. When a proposed preliminary plan includes a burial site identified on
64 the Montgomery County Cemetery Inventory within the site, the
65 applicant must satisfy the following requirements:
- 66 a. If there is no surface evidence of the burial site, the applicant
67 must use historical and archeological best practices to establish
68 the location of the burial site. The corners of the burial site must
69 be staked in the field before preliminary plan submittal. The
70 stakes must be maintained by the applicant until preliminary plan
71 approval.
- 72 b. An inventory of existing burial site elements (such as walls,
73 gates, landscape features, fieldstones, and tombstones) and their
74 condition must be submitted as part of the preliminary plan
75 application.
- 76 c. The placement of lot lines must promote long-term maintenance
77 of the burial site and protection of existing elements.
- 78 d. An appropriate fence or wall must be maintained or provided to
79 delineate the burial site. The design of the proposed enclosure
80 and a construction schedule must be approved by the Planning
81 Board, before the approval of a record plat.
- 82 e. The burial site must be protected by arrangements sufficient to
83 assure the Planning Board of its future maintenance and
84 preservation.
- 85 2. The Planning Board must require appropriate measures to protect the
86 burial site during the development process.

87 3. Without regard to Subsection 2, if the Planning Board determines that
 88 an accommodation of the burial site with the development cannot be
 89 accomplished without denying the property owner reasonable use of its
 90 entire property, then the Planning Board may approve, a plan for
 91 development with the appropriate treatment of the burial site under
 92 State law.

* * *

Sec. 3. Effective Date.

This amendment takes effect 90 days after it becomes law.

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date