

Subdivision Regulation Amendment No.: 17-01  
Concerning: Approval Procedures – Burial sites  
Draft No. & Date: 2 – 6/2/17  
Introduced: June 27, 2017  
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”

<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:*

1           **Sec. 1.** Chapter 50 is amended as follows.

2   \*   \*   \*

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

4   \*   \*   \*

5           **Section 2.2. Definitions**

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

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

9   \*   \*   \*

10          **B.**

11    \*   \*   \*

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

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

17    \*   \*   \*

18          **Article II. Subdivision Plans**

19          **Division 50.4. Preliminary Plan**

20          Except for an administrative or minor subdivision submitted under Divisions 50.6  
21          and 50.7, the subdivider must submit a proposed subdivision to the Board for

22 approval in the form of a preliminary plan before the submission of a plat. The plan  
23 must show graphically, and supporting documents must demonstrate, the data  
24 needed for the Board to make the findings required by this Article.

25 **Section 4.1. Filing and Specifications**

26 \* \* \*

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

30 \* \* \*

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

32 \* \* \*

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

35 k. all existing topography, structures, and paving on adjoining  
36 properties within 100 feet[.]; and

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

39 \* \* \*

40 **Section 4.2. Approval Procedure**

41 \* \* \*

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

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

58 \* \* \*

59 **Section 4.3. Technical Review**

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

62 \* \* \*

63 M. Burial sites

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

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

94 \* \* \*

95 **Sec. 3. Effective Date.** This amendment takes effect 90 days after it becomes  
96 law.

97

98 *Approved:*

99

100

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

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

103

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