

Ordinance No.: 17-20
Subdivision Regulation Amend. No.: 12-01
Concerning: Preliminary Plan – Approval
Procedure
Revised: 9/10/12; Draft No. 3
Introduced: June 26, 2012
Public Hearing: July 31, 2012
Adopted: September 18, 2012
Effective: September 18, 2012 (except for
Section 50-35(e)(7))

**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: Councilmember Rice

AN AMENDMENT to the Subdivision Regulations to:

- (1) establish growth tiers under Maryland’s Sustainable Growth and Agricultural Preservation Act of 2012;
- (2) add provisions for the approval of subdivisions within the growth tiers; and
- (3) generally amend provisions concerning the subdivision of land to avoid negative consequences to landowners from the implementation of Maryland’s Sustainable Growth and Agricultural Preservation Act of 2012.

By amending

Montgomery County Code
Chapter 50. SUBDIVISION OF LAND.
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>

OPINION

Subdivision Regulation Amendment 12-01, Preliminary Plan – Approval Procedure, sponsored by Councilmember Rice, was introduced on June 26, 2012. SRA 12-01 is a response to the Maryland Sustainable Growth and Agricultural Preservation Act of 2012.

The Council held a public hearing on July 31, 2012. The only testimony received at the public hearing was from the Planning Board. The Planning Board recommended the adoption of SRA 12-01 with amendments.

The subdivision regulation was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

On September 10, 2012, the Planning, Housing, and Economic Development Committee held a worksession to review the amendment. The Committee reviewed the staff report and discussed the matter with representatives from the Maryland Department of Planning and Planning Staff, and the Committee recommended approval of SRA 12-01 with amendments to:

- 1) adopt the Tier areas recommended by Maryland Department of Planning (MDP) staff;
- 2) explicitly allow revisions of the Tier map by a future SRA;
- 3) define a minor subdivision as 7 or fewer dwelling units and define a major subdivision as 8 or more dwelling units;
- 4) grandfather major septic subdivision applications in the Tier IV area that were filed before August 31, 2012; and
- 5) revise an uncodified section to make the provision for the approval of major subdivisions served by septic systems in the Tier IV area effective on the date that MDP verifies the density of the Tier IV area.

The District Council reviewed Subdivision Regulation No. 12-01 at a worksession held on September 18, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this subdivision regulation will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation No. 12-01 will be approved as amended.

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. Section 50-35 is amended as follows:**

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

3 * * *

4 (e) *Wells and septic systems.* Before the Board approves a plan for lots with
5 individual wells or septic systems, the plan must be approved by the
6 Department of Permitting Services. The Board must review ~~[[the]]~~ any plan
7 that includes residential lots under the Maryland Sustainable Growth and
8 Agricultural Preservation Act of 2012 (Sections 9-206 and 9-1110 of the
9 Environment Article, and Section 1-401 and Subtitle 5 of the Land Use
10 Article).

11 (1) The official map displaying the Growth Tier areas as allowed under
12 the Maryland Sustainable Growth and Agricultural Preservation Act
13 of 2012 is on the Planning ~~[[Board]]~~ Department website at
14 <http://www.montgomeryplanning.org/development/>.
15 [[The map may be amended by the Council’s approval of a general
16 plan amendment that adopts Tier areas.]] The Council may amend the
17 official map either by:

18 (A) adopting Tiers in a General Plan Amendment; or

19 (B) an amendment under Section 50-6A.

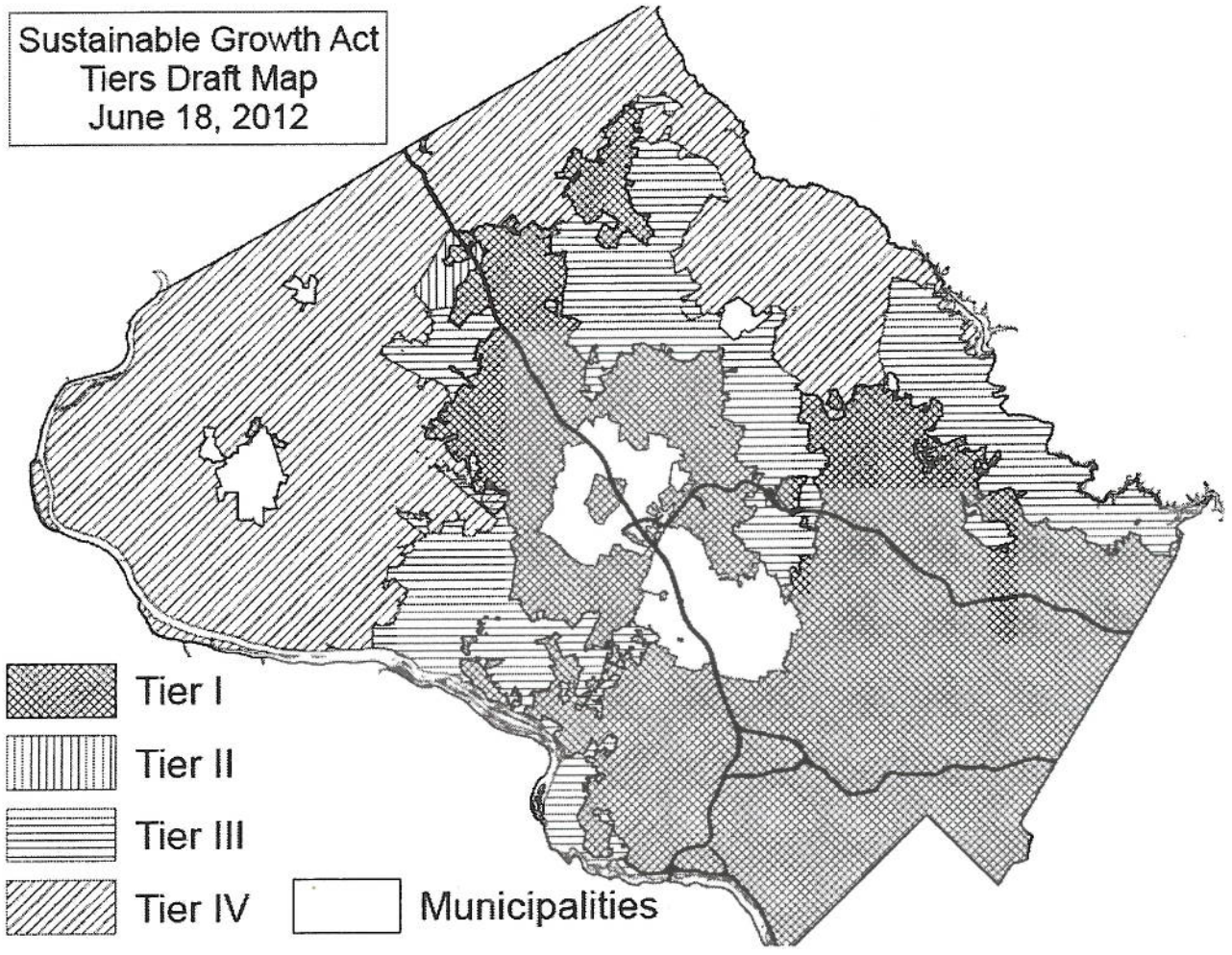
20 The following is a representation of the map ~~[[June 20, 2012]]~~ as of
21 September 18, 2012:



23

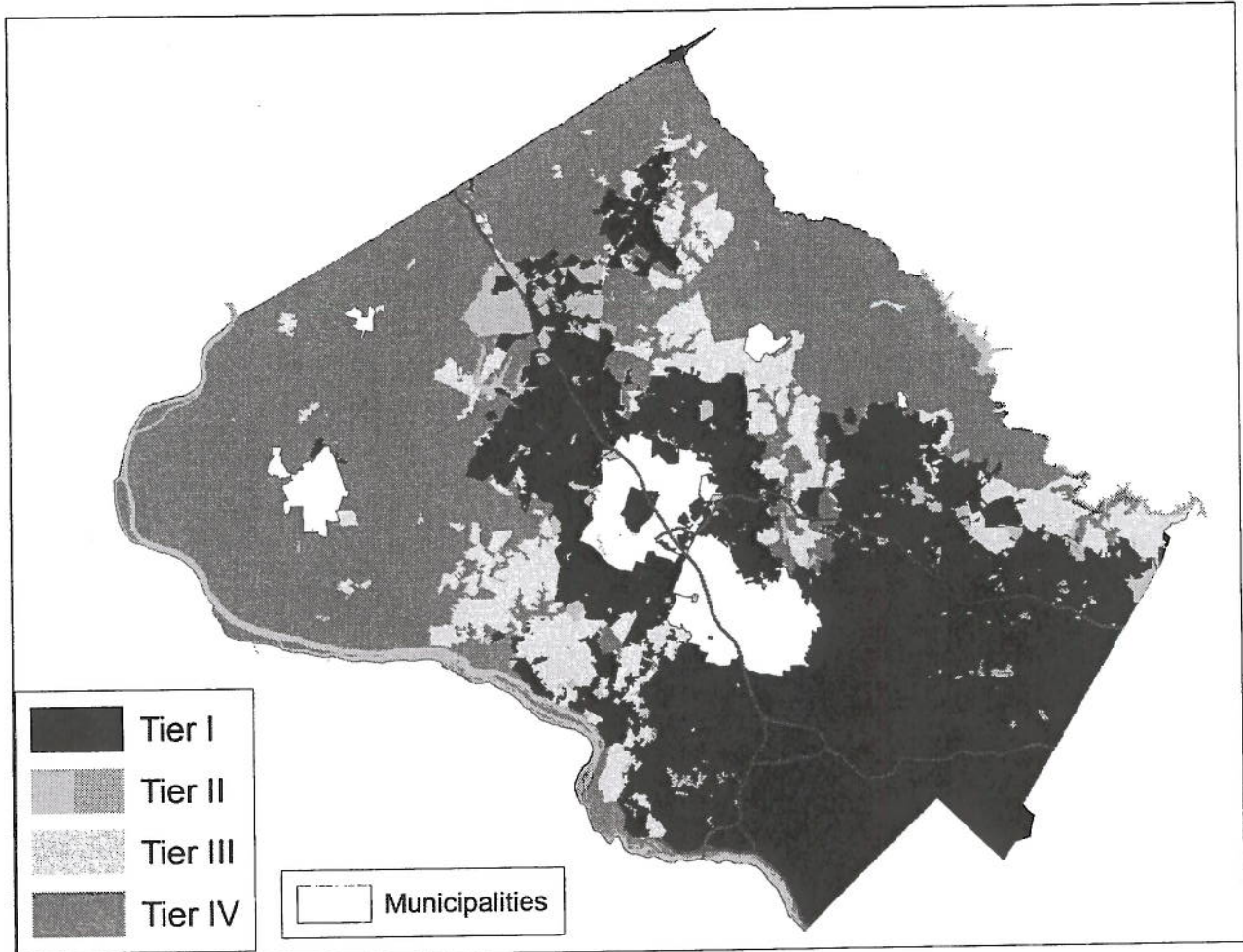
II

Sustainable Growth Act
Tiers Draft Map
June 18, 2012



24
25

II



26

27

28

29

30

31

32

33

34

35

36

37

38

- (2) The Board must ~~deny~~ not approve any subdivision ~~located in the Tier I area if the lots will~~ that would be served by ~~a septic system~~ one or more septic systems on land located in the Tier I area.
- (3) The Board must ~~deny~~ not approve any ~~residential~~ major subdivision that would be served by one or more septic systems on land located in the Tier II area ~~for 5 or more residential lots served by septic systems~~.
- (4) The Board may approve a subdivision for any number of residential lots that would be served by one or more septic systems on land located in the Tier III ~~or Tier IV areas~~ area.
- (5) The Board may approve a minor subdivision that would be served by

39 one or more septic systems on land located in the Tier IV area.

40 (6) The Board may approve a major subdivision that would be served by
41 one or more septic systems on land located in the Tier IV area if a
42 complete preliminary plan application was filed on or before August
43 31, 2012.

44 (7) The Board may approve a major subdivision that would be served by
45 one or more septic systems on land located in the Tier IV area.

46 (8) In this subsection:

47 (A) a major subdivision is a subdivision that would create 8 or more
48 residential building lots; and

49 (B) a minor subdivision is a subdivision that would create 7 or
50 fewer residential building lots.

51 * * *

52 **Sec. 2. Certification of Tier 4 density.** Within 5 days after this ordinance
53 becomes law, the Planning Director must submit the Tier Map to the Maryland
54 Department of Planning, with all data required by Maryland's Sustainable Growth
55 and Agricultural Preservation Act of 2012, to verify that the average density of the
56 Tier IV area is no greater than one unit for every 20 acres.

57 **Sec. 3. Note to Editor.** The map on page 5 of this ZTA replaces the deleted
58 map on page 4.

59 **Sec. 4. Effective date.** This ordinance takes effect as follows:

60 (a) Except for Section 50-35(e)(7), this ordinance takes effect on the date the
61 ordinance becomes law;

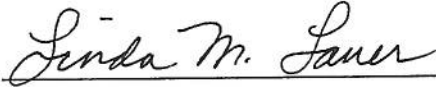
62 (b) Section 50-35(e)(7) takes effect on the date the Maryland Department of
63 Planning certifies the Tier IV area as being less dense than one dwelling unit
64 for every 20 acres.

Approved:


Isiah Leggett, County Executive

Sept 19, 2012
Date

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council

Sept 19, 2012
Date