



**Subdivision Regulation Amendment (SRA) No. 15-02, Record Plats - Exemptions**

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Completed 4/23/15

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**Description**

SRA No. 15-02 proposes to expand the existing provisions of Chapter 50 to exempt deeded parcels from the subdivision platting requirements when part of the property is transferred to the public for right-of-way.

**Summary**

**Staff recommends approval of SRA 15-02, as introduced, to modify the current exception in Section 50-9(c) that permits issuance of a building permit on parts of previously recorded lots that were changed as a result of a transfer of land for public use, to permit it to be used for unplatted parcels that qualified for an exception to platting before the transfer.**

Chapter 50 governs how land in the County may be subdivided and ensures that proper subdivision on a record plat is accomplished by restricting issuance of building permits for unplatted properties and parts of previously recorded lots created by a land transfer deed. Section 50-9 of the Chapter (Attachment 2) contains the circumstances under which an exception to the platting requirement may be made. The SRA proposes to modify the current exception in Section 50-9(c) that allows the issuance of a building permit on parts of previously recorded lots that were changed as a result of a transfer of land for public use, to allow an exception to be used for certain unplatted parcels, as well. The change is needed to protect the right to build on unplatted parcels that are also excepted from platting under Section 50-9(f)(1). Under this section a building permit may be issued for construction of a single family detached dwelling on an unplatted parcel which has not changed in size or shape since June 1, 1958; however, there are instances where these grandfathered parcels have lost their exception because they have been changed by a land transfer for public use. Therefore, the proposed change allows these parcels to keep their rights to build in the same manner that they are preserved for record lots that have been modified for the same purpose.

The proposed SRA is consistent with language that has been proposed to achieve the same purpose in the Public Hearing Draft of the comprehensive re-write of Chapter 50. The Planning Board's public hearing on this draft is scheduled for April 30, 2015.

ATTACHMENTS

1. SRA 15-02 as introduced
2. Chapter 50-9, Exceptions to platting requirements.

# ATTACHMENT 1

Subdivision Regulation Amendment No.: 15-02  
Concerning: Record Plats – Exemptions  
Draft No. & Date: 1 – 3/18/15  
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**

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By: The District Council at the Request of the County Executive

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**AN AMENDMENT** to the Subdivision Regulations to:

- (1) except deeded properties from platting requirements under ~~[[curtain]]~~ certain circumstances

By amending the following section of County Code Chapter 50:  
Section 50-9. “Exceptions to platting requirements”

<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. Section 50-9 is amended as follows:**

2 **Sec. 50-9. Exceptions to platting requirements.**

3 Recording of a subdivision plat under this Chapter is not required for:

4 \* \* \*

5 (c) Public [taking] transfer.

6 Where a property has been changed in size or shape subsequent to the date of its  
7 inclusion within the district or subsequent to October 19, 1934, whichever is the  
8 later date, by reason of the [taking] transfer of a part of such property for public  
9 use by reference to a properly drawn and recorded [plat] instrument, [such as a  
10 right of way plat; provided, that] if the outlines and dimensions of such remainder  
11 may be clearly determined by reference to the previously recorded plats. This  
12 provision also applies to any unplatted parcel that qualified for an exception to  
13 platting before the transfer.

14 \* \* \*

15 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of  
16 Council adoption.

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18 *Approved:*

19

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

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

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

### **Sec. 50-9. Exceptions to platting requirements.**

Recording of a subdivision plat under this Chapter is not required for:

#### **(a) *Agriculture and uses located on agricultural land.***

(1) A bona fide division or partition of land that is and will remain in exclusively agricultural use, as agriculture is defined in this chapter.

(2) Land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires issuance of a building permit. This includes a special exception use approved under divisions 59-G-1 and 59-G-2, unless the Board of Appeals requires subdivision as a condition of the special exception.

(3) The issuance of a building permit for any equestrian facility building or structure on land classified in an agricultural zone.

**(b) *Court action.*** Partition of lands by will or through action of a court of competent jurisdiction unless or until development of the lands is proposed.

**(c) *Public taking.*** Where a property has been changed in size or shape subsequent to the date of its inclusion within the district or subsequent to October 19, 1934, whichever is the later date, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right of way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

**(d) *Adjoining properties.*** The sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties for the purpose of small adjustments in boundaries; provided, that additional lots are not thereby created and that the original lots are not reduced below the minimum sizes required by this Chapter or by Chapter 59 of this Code. This exemption is not applicable to minor lot line adjustments that occur after May 19, 1997.

**(e) *Utility rights-of-way.*** A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as part of an electric transmission line right of way or other public utility right of way; provided, that if a parcel resulting from such division is ever to be used as a building site for other than an electric transmission line or other public right of way, then before a building permit may be issued for such other use, a plat must be filed and recorded.

#### **(f) *Single residential lot.***

(1) An application for a building permit for one (1) single-family detached dwelling unit on a parcel not previously included on a recorded plat, which has not changed in size or shape since June 1, 1958, provided:

## ATTACHMENT 2

(A) A description and location plat of the lot and proposed structure have been furnished with the permit application, sufficiently detailed, to locate the same on the base maps of Montgomery County.

(B) Approval of the permit application would not result in obstructing the future opening, extension or widening of any road deemed essential in the public interest, nor would it otherwise jeopardize any planned public facility.

(C) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width.

(D) Approval of the permit would not affect adversely the general plan for the physical development of the regional district or any portion thereof.

(2) An application for a building permit to rebuild a one-family detached dwelling unit, on a parcel or on part of a lot, when the permit is to rebuild a dwelling involuntarily demolished by fire, wind, falling debris, water, or other force of nature. The new replacement dwelling must be located:

(A) on the same footprint as the demolished dwelling; or

(B) on the same lot or part of a lot where current zoning setback standards are satisfied.

**(g) Telecommunications towers/antennas, including associated accessory structures,** unless other development of the land requires a subdivision plan.

**(h) *Certain Residential Property in the City of Takoma Park.*** An application for a building permit for one single-family detached dwelling unit on property located in the portion of the City of Takoma Park annexed into Montgomery County on July 1, 1997 that was recorded by a deed prior to January 1, 1982 and which remains otherwise buildable under the Prince George's County Zoning and Subdivision Regulations on June 30, 1997, provided that a description and locational survey drawing of the lot and proposed structure have been furnished with the permit application, sufficiently detailed to locate the lot and structure on the 1 inch equals 200 foot scale base map of Montgomery County.

**(i) *Certain commercial properties adjoining state highways in Community Legacy Plan Areas.*** An application for a building permit for an addition to a building on commercially zoned property:

(1) adjoining a state highway;

(2) located in a state-approved Community Legacy Plan Area on October 30, 2012;

(3) with less than 10,000 square feet of gross floor area on October 30, 2012 where later building permits cumulatively allow increases in total gross floor area of less than 2,000 square feet; and

## ATTACHMENT 2

(4) that includes a description and locational survey drawing of the lot and proposed structure on a 1 inch equals 50-foot scale base map of the County in any building permit application which shows that the additional floor area will not extend into any adopted master plan road right-of-way.

**(j) *Certain commercial properties adjoining state highways in Rural Village Overlay Zones.*** An application for a building permit for an addition to, or to reconstruct or replace, a building on commercially zoned property:

(1) adjoining a state highway;

(2) located in the Rural Village Overlay zone;

(3) with less than 10,000 square feet of existing gross floor area where later building permits cumulatively allow net increases in total gross floor area of less than 2,000 square feet;

(4) that includes a description and locational survey drawing of the lot and proposed structure on a 1 inch equals 50-foot scale base map of the County which shows that the additional floor area will not extend into any adopted master plan road right-of-way; and