



Internal Memorandum

Re: Regulation Applicability/Grandfathering
To: DLD Review Staff
From: Cindy Hamilton, Chief
Division of Land Development
Date: February 26, 2008

The purpose of this memo is to consolidate into a single document summary information about grandfathering. Please note – this supercedes the earlier memos of April 22, 2004 & October 11, 2006.

I. Subdivision Regulations

Currently, we are processing plans which are subject to one of three versions of the Subdivision Regulations: the Second Amendment to the Fourth Edition (aka, the "Fourth Edition"); the Fifth Edition; the First Amendment to the Fifth Edition (aka, the "Amended Fifth Edition"). The applicability of these editions is as follows:

- The Second Amendment to the Fourth Edition (effective 8/19/99)
 - ▶ applies to:
 - 1) any plan in the review process (SP or P for subdivision/SDP for site development) if the plan originals had not been issued signature approval prior to 8/19/99, **OR**
 - 2) any plan submitted for review on or after 8/19/99 up to and including 11/14/2001

- The Fifth Edition (effective 1/8/02)
 - ▶ CB 52-2001
 - ▶ applies to:
 - 1) any plan submitted for review on or after 11/15/01 up to and including 5/22/03, **OR**
 - 2) any plan submitted for review after 5/22/03 which had reached one of the following milestones:
 - for SP, P or SDP – originals signed prior to 10/2/03
 - for resubdivisions or minor subdivisions – approval letter dated prior to 10/2/03

Note: There was no grandfathering for sketch plans submitted after 5/22/03.

- The First Amendment to the Fifth Edition (effective 10/2/03)
 - ▶ CB 45-2003
 - ▶ applies to any plan submitted for review after 5/22/03 which had not reached one of the following milestones:
 - for SP, P or SDP – originals signed prior to 10/2/03
 - for resubdivisions or minor subdivisions – approval letter dated prior to 10/2/03

- The following provides a historical overview of the older Subdivision Regulations:

From 1930 until 1961, subdivision in Howard County was governed by State laws. Effective dates for the Howard County Subdivision and Land Development Regulations are:

First Edition of the Howard County Subdivision and Land Development Regulations; County Council Resolution	Enacted and Adopted March 7, 1961
Subdivision defined to allow gift deeds and greater than 5 acre parcels; House Bill 452	Effective June 1, 1965
Any deed filed prior to May 3, 1974 (Liber 680, Folio 505) to create either a gift conveyance within the second degree relationship, or to create a lot greater than five (5) acres, was exempted from the subdivision plat process.	
Please note there may be lots/parcels created prior to May 3, 1974 which appear to be illegal but which are actually legal based on the definition of "subdivision" which was in effect at the time. Before making a ruling on lot/parcel legality, check the Regulations in effect at the time the property was subdivided. The First Edition (effective March 7, 1961) defined subdivision as "the division of a parcel of land into 3 or more lots/parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land". Based on this definition, the division of a lot/parcel into two pieces would not be considered a subdivision and was <u>exempt</u> from compliance with the Subdivision Regulations. This definition remained valid from March 7, 1961 until the adoption of the Second Edition on May 3, 1974 <u>and</u> between March 12, 1975 (when the Second Edition was ruled invalid and the First Edition was reinstated) and February 7, 1976 (the effective date of the Revised Second Edition).	
Second Edition of the Howard County Subdivision and Land Development Regulations; Resolution #1, 1974	Adopted March 4, 1974 Effective date May 3, 1974
"Loop-hole" divisions created by ruling of Courts Case #9186 Equity (Hallowell, Zepp and Brandt)	Effective date January 6, 1975
Any deed filed between May 3, 1974 (Liber 680, Folio 506) and March 5, 1975 (Liber 715, Folio 221) to create a lot in which no more than four (4) lots total were created at one time, exempted that type of division from complying with the subdivision plat process. This type of division would allow property owners to create three (3) lots and a residue of the original tract (considered as the fourth lot). This residue could then be re-divided into three (3) lots and a residue. This process could continue until all of the original parcel was divided and did not make a distinction as to minimum lot size other than that required by the zoning district. The above is the period commonly referred to as the "Loop-Hole" period.	
The term "subdivision" was redefined to preclude exemptions. This closed "Loop-hole" division and required all future subdivision to go through the Howard County Subdivision and Land Development Regulations.	
County Council Bill #12, 1974	Effective date March 5, 1975
Second Edition ruled invalid by Court Case #9187 Equity (Hallowell and Zepp) First Edition (1961) was reinstated as control	Effective date March 12, 1975
Revised Second Edition of the Howard County Subdivision and Land Development Regulations, Bill #41, 1975	Adopted December 1, 1975 Enacted December 9, 1975 Effective February 7, 1976
Third Edition	Effective date March 12, 1993
First Amendment to the Third Edition	Effective date September 6, 1994
Second Amendment to the Third Edition	Effective date July 1, 1995
Fourth Edition	Effective date May 6, 1996
First Amendment to the Fourth Edition	Effective date July 7, 1998

II. Zoning Regulations

At the present time, we are generally working with three versions of the Zoning Regulations: the 1993 Zoning Regulations as amended by CB 50-2001; the 2004 Zoning Regulations; and the 2006 Zoning Regulations (“Comp Lite”, CB 2-2005). The applicability of these regulations is as follows:

- October 1993 Zoning Regulations as amended by CB 50-2001
 - ▶ effective 1/8/02
 - ▶ applies to any plan in the review process that had not achieved SP or P plan approval prior to 11/1/01 except that CB 50-2003 amended this to also allow a sketch plan which had a technically complete letter prior to 11/1/01 to be subject to the Regulations in effect prior to the effective date of CB 50-2001 (1/8/02)

- 2004 Zoning Regulations
 - ▶ CB 75-2003 (effective 4/13/04)
 - ▶ applies to initial subdivision plans (as defined by the Subdivision Regulations) and to SDPs which were not technically complete prior to 2/2/04

- 2006 Zoning Regulations
 - ▶ CB 2-2005 (“Comp Lite”) effective July 28, 2006
 - ▶ applies to initial subdivision plans (as defined by the Subdivision Regulations and to SDPs which were not technically complete prior to July 28, 2006

- The following provides a historical overview of the older Zoning Regulations:

The first zoning regulations and maps for Howard County were adopted on July 27, 1948. Subsequent Comprehensive Zoning Plans were adopted on:

January 12, 1954	Board of County Commissioners Case No. 91A
May 16, 1961	Board of County Commissioners Case No. 289
October 3, 1977	Zoning Board Case No. 705
June 6, 1982	Zoning Board Case No. 762 (Ellicott City Planning Area only)
August 2, 1985	Zoning Board Case No. 804
September 18, 1992	Zoning Board Case No. 928 (amended the zoning maps for western Howard County and the Zoning Regulations primarily affecting western Howard County)
October 18, 1993	Zoning Board Case No. 941 (amended the zoning maps for eastern Howard County and the Zoning Regulations for entire County)

III. Miscellaneous Legislation

Historic District Commission Ordinance1973 The Ellicott City Historic District was designated by the Zoning Board in 1974 The Lawyers Hill Historic District was designated by the Zoning Board on April 25, 1994
Council Bill 66 requiring delineation of environmental features and buffersEffective February 3, 1989
Adequate Public Facilities OrdinanceEffective April 10, 1992 (plans grandfathered with signed Sketch Plan)
Forest Conservation OrdinanceEffective January 1, 1993 (plans grandfathered with a signed Preliminary 'Technically Complete' letter dated on or before December 31, 1992)
Howard County Landscape ManualEffective March 12, 1993 (plans grandfathered by a signed Preliminary Plan)
Scenic Roads OrdinanceEffective September 6, 1994 (plans grandfathered by a signed Sketch Plan)

CH/cs/regapp-grandfathering
Cc: Marsha McLaughlin
Steve Lafferty
Kim Flowers
Chuck Dammers
George Beisser
Mina Hilsenrath