

Ordinance No. _____

AN ORDINANCE TO AMEND
CHAPTER 20, ENTITLED, "SUBDIVISION OF LAND,"
ARTICLES I THROUGH VI, VIII, X AND XIII,
SO AS TO CORRECT CITATIONS AND CROSS REFERENCES
RELATED TO CHAPTER 19

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 20, Articles I through VI, VIII, X and XIII, are hereby amended to read as follows:

Chapter 20

SUBDIVISION OF LAND

ARTICLE I. GENERAL

Sec. 20-1. - Introduction.

These regulations shall hereafter be known, cited, and referenced as the Subdivision ~~Regulations~~ Ordinance of the City of Gaithersburg.

Sec. 20-2. - Authority.

Pursuant to the powers and jurisdictions vested through the Annotated Code of Maryland, 1996, Art. 66B, ~~§ 5-01 through 6-03~~ Land Use Article, §§ 5-101 through 6-204, the City of Gaithersburg hereby exercises its power and authority to review, approve, approve with ~~conditions~~ requirements or restrictions, and disapprove plats for subdivision and resubdivision of land within the corporate limits of the municipality.

Excavations, clearing, stripping, grading, and fills shall conform to Chapter 8; road construction shall generally conform to ~~section 19-7 through section 19-17~~ Chapter 19 and development standards to the zoning ordinance, Chapter 24 of this Code.

Sec. 20-3. - Purpose of chapter.

The purpose of this chapter is to provide for:

- (a) The harmonious development of the city.

Boldface

Underlining

~~Single strikethrough~~

Double underlining

~~Double boldface strikethrough~~

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by Amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

- (b) Coordination of roads and other rights-of-way within subdivisions with other existing, planned or platted roads and rights-of-way, or with other features of the city, or with the city's comprehensive plan, area master plan, or with any road plan approved by the city council as a part of the comprehensive plan for the city.
- (c) Adequate open space for traffic, access, recreation, light and air, environmental and historic preservation, by dedication, or otherwise.
- (d) Dedication and reservation of land for roads, sidewalks, pedestrian and bicycle paths, storm water management, utilities, and similar infrastructure benefitting the public; for schools and other public buildings; and for parks, playgrounds, and other public purposes.
- (e) The conservation of or production of adequate recreation, transportation, utility, water, drainage, and sanitary facilities.
- (f) The preservation of natural streams and other waterways.
- (g) The avoidance of population and traffic congestion.
- (h) The avoidance of such scattered or premature subdivision or development of land as would involve danger or injury or adverse affects to health, safety, or welfare by reason of the lack of water supply, drainage, recreation, transportation, or other public services and facilities or necessitate an excessive expenditure of public funds for the supply of such services and facilities.
- (i) Conformity of resubdivided lots which generally or substantially conform to the character of lots within the existing subdivision with respect to area, frontage, shape, and alignment of existing lots and streets within the same block, subdivision, or neighborhood.
- (j) Control of subdivision or building (except for agricultural purposes) in floodplain areas of streams and drainage courses, other environmentally sensitive areas, and on unsafe land areas.
- (k) Preservation of outstanding cultural features and historic sites or structures.
- (l) Other benefits to the health, comfort, safety, or welfare of the present and future population of the city.
- (m) Preservation (and afforestation) of forests, significant trees, and environmentally sensitive areas.
- (n) Coordination of roads and sidewalks, utilities, and stormwater management systems within the subdivision and with adjacent subdivisions and existing public roads, utilities, stormwater systems, and sidewalks.

Sec. 20-4. - Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Alley. A minor way, ~~other than a street,~~ used primarily for vehicular service access to the side or rear of lots or parcels and designed for extremely slow speeds.

Building restriction line. The line beyond which the foundation wall or any enclosed porch, vestibule, or other enclosed portion shall not project, as provided in Chapter 24 of this Code.

Comprehensive plan. Comprehensive plan means the comprehensive and coordinated policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area's future development. Comprehensive plan includes general plan, master plan, community plan, and the like. The master plan of the city and any amendments or additions thereto, or part or portion thereof, approved by the planning commission, and adopted by the city council pursuant to ~~Article 66B~~ the Land Use Article of the Annotated Code of Maryland, ~~1957,~~ as amended as amended.

Conservation area. Land, ~~either adjacent to a stream or within a stream valley, shown as a park or conservation area and designated as such on the comprehensive plan for the city,~~ or which contains natural features or wildlife considered to be of significant value, or is necessary to provide natural buffers between different forms of development, and established for the purpose of providing adequate open space for light, air, and recreation; for the preservation and creation of wooded areas; for the protection of game; for protection against erosion; for the control of drainage; for the general benefit and protection of properties adjacent to and in vicinity of such streams or stream valleys, or areas containing significant natural environmental or historic features and resources, and for the general welfare. No footing or foundation of any structure or building shall project into the conservation area.

Cul-de-sac. A ~~minor~~ street with only one outlet, with a vehicular turnaround at one end.

Developer (may include owner or subdivider). An individual, partnership, syndicate, or corporation (or agent of any of the foregoing) that undertakes the activities covered by this chapter, including the preparation of a subdivision plat showing the layout of streets, blocks, lots, etc., and the public improvements included therein. The term "developer" may also include the terms "owner" or "subdivider."

Easement. A grant or reservation by the owner of land, for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement, unless otherwise stated in the easement. The usage of the word "easement" for land platting purposes in this chapter means that such an easement area is included within the dimensions and areas of the lots or parcels through which the easement may run, and is not to be separated therefrom as in the case of a dedicated right-of-way. An easement area shall include such areas upon, over and under the land area so designated.

Easement, slope. An easement to permit the creation and maintenance of slopes necessary to stabilize construction or to stabilize lands adjacent to construction.

Highway. See "street."

Improvements, public. Any of the following: Publicly owned, operated, or maintained roads and streets, alleys, grading, road, pavement, curbs and gutters, sidewalks, crosswalks, pedestrian and bicycle paths, public transit facilities, water mains, sanitary sewer lines, water supply and sewage disposal, storm sewer line and drainage structures, curb returns, sidewalk and driveway entrances in rights-of-way, guard rails, retaining walls, sodding, planting, monuments, street lights, storm water management, parks and recreation areas and facilities, publicly owned or operated historic resources, public educational facilities, and public buildings and structures of any nature or kind.

Lot. A tract, plot, or portion of a subdivision or other parcel or land subject of a recorded plat of subdivision intended as a unit for the purpose, whether immediate or future, of transfer or ownership or for building development.

Lot, area of. The total horizontal area included within the rear, side, and front or proposed street lines. No alley, street, or other public way, public land, or area dedicated or proposed for public use shall be included in determining the area of the lot.

Lot, corner. A lot abutting two (2) or more streets at their intersection, ~~where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees and a minimum of seventy (70) degrees~~ as specified in Chapter 24 of this Code. Corner lot must front both abutting streets and provide minimum front yard setback to each street as provided in the zone.

Lot, depth of. The average horizontal distance between the front lot line and the rear lot line.

Lot, front of. The side of a lot which abuts a street. A corner lot must front on both streets and must provide all minimum setbacks and yard area requirements.

Lot frontage; minimum at building line. The least permissible width of a lot as specified in Chapter 24, measured horizontally along the front building line.

Lot frontage; minimum at front lot line. The least permissible width of a lot (as specified in Chapter 24), measured horizontally along the front lot line.

Lot, interior. A lot other than a corner lot, but including a through lot.

Lot line, front. The line running along the front of the lot and separating it from the street. Also termed the front street line. In a through lot or a corner lot, both lines abutting the streets shall be deemed to be "front lot lines."

Lot line, rear. The line generally opposite or parallel to the front lot line, except in a through lot. If a rear lot line is less than ten (10) feet long or the lot is pointed at the rear, the rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the front lot line, or if the front lot line is curved, parallel to the chord of the arc of such front lot line.

Lot line, side. Any lot line other than a front lot line or a rear lot line.

Lot lines. The lines bounding a lot, as hereinafter described.

Lot, outlot. A parcel of land which is shown on a subdivision or record plat but which is not to be occupied by a building or otherwise considered a buildable lot.

Lot, through. An interior lot, fronting on two (2) streets.

Master plan. See "comprehensive plan."

Minor subdivision. The correction, division, resubdivision or assemblage of a lot, tract or parcel of land, including minor adjustments to existing lot lines, that does not require the approval of a preliminary plan of subdivision prior to the submittal of a record plat application.

Parcel. A tract or a plot of land with boundaries that are not included in a recorded plat of subdivision.

Pedestrian and bicycle path. A minor way intended primarily for pedestrians and bicycles, and excluding motor-driven vehicles. A pedestrian and bicycle path may be provided by the developer according to the approved site plan.

Plan. A plan of subdivision proposed or submitted by a subdivider or developer for approval by the commission.

Planning commission. The city of Gaithersburg planning commission.

Plat. A mylar record physical print of the subdivision plat required to be recorded in the land records of Montgomery County, in accordance with specifications for the same contained in this chapter and ~~Article 66B~~ the Land Use Article of the Maryland Annotated Code.

Preliminary subdivision plan. A plan for a proposed subdivision or a resubdivision to be prepared and submitted for approval, in accordance with specifications and procedure provided herein, prior to preparation of a subdivision record plat.

Public use area. An area, site, lot, parcel, or tract of land or portion thereof shown on the comprehensive plan for the city, proposed for school, park, recreational, utility, transportation, drainage, governmental office, or other public purposes, and for which the developer may be required to provide or reserve adequate space in the layout of the subdivision. It may also be a strip of land between reverse frontage lots and a street.

Reservation. The assignment by a subdivider of land to be held by the subdivider to a future time for a specified use and no other use or as deemed suitable by the planning commission.

Right-of-way. A strip of land intended to be occupied by a street, alley, sidewalk, pedestrian and bicycle path, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer herein. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcel adjoining such right-of-way and not included in the area within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, sidewalks, pedestrian and bicycle paths, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established. A right-

of-way as defined by the Washington Suburban and Sanitary Commission may be included in this definition as a part of a lot or parcel.

Road Code. Road classification and minimum requirements of streets as stated required in Chapter 19 of the City Code.

Site development plan. Development plans for a property approved in accordance with the Zoning Ordinance, Article V, Chapter 24 of this Code.

Street. A public or private right-of-way for vehicular or bicycle / pedestrian traffic or both, as designated in Chapter 19 whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated, excluding alleys, easements, and pedestrian and bicycle paths not sited within a right-of-way.

Subdivision. The division or assemblage of a lot, tract, or a parcel of land into one or more lots, plots, sites, tracts, parcels, or other divisions for the purpose, whether immediate or future, of sales or building development and, when appropriate to the context, relating to the process of subdividing or to the land or area subdivided; provided, that the definition of subdivision shall not include a bonafide division or partition of exclusively agricultural land not for development purposes or the division or partition of land pursuant to section 20-6(g) of this chapter. A resubdivision is also a subdivision.

Thoroughfare. See "street."

Zoning map. The zoning map of the city, with any amendment thereto, adopted as part of Chapter 24.

Sec. 20-5. - Applicability of plats.

In construing the definition of the word "subdivision" as set forth above, the planning commission shall require the preparation, submission and filing of final subdivision plats in the cases of:

- (a) The dedication, widening, relocation, or abandonment of any alley, street, highway, transit way, or other thoroughfare; provided, however, the city may accept deeds of dedication or deeds of release where circumstances warrant, without the necessity of filing a final subdivision plat.
- (b) The division of any lot, tract, or parcel of land, or part thereof, into two (2) or more lots.
- (c) The assemblage of two (2) or more lots or tracts or parcels or parts thereof into one or more lots or parcels.
- (d) Unplatted parcels or tracts requiring the issuance of a building permit, subject to the exceptions of § 20-73 of this Code.

Whenever any subdivision or resubdivision of land is proposed to be made within the city and before any contract for the sale of or any offer to sell such subdivision is made, or before any development or construction of any building takes place within a subdivision or any part thereof, the subdivider thereof or his agent shall file in accordance with procedure prescribed in this chapter, a final subdivision plat

which shall be recorded in the land records of the county, except as provided in section 20-6 of this Code.

Any owner of any lot, parcel, or tract of land situated within the city who may subdivide the same shall cause a plat of such subdivision to be made, with reference to known or permanent monuments and in accordance with the regulations set forth in this chapter.

After approval of such plat of subdivision by the planning commission, the owner shall file the original tracing of such plat with the planning commission and one copy with the city planning and code administration department, and shall provide a fee in accordance with the currently adopted fee schedule resolution to reproduce the required number of photo or litho print copies with the Clerk to the Circuit Court of Montgomery County for recordation among the land records of the county and for the city to distribute to agencies and utilities.

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Sec. 20-9. - Environmental standards for development regulations for preliminary and final subdivision plans.

All subdivisions pursuant to this chapter must be consistent with the environmental standards for development regulations of the City of Gaithersburg as adopted in the form of regulations by resolution of the city council, and as amended thereafter. It is the intent of the city council that this chapter and regulations adopted pursuant to this section of the City Code be applied retroactively from and after July 26, 1995.

Notwithstanding any provision to the contrary contained in the environmental standards for development regulations of the city, any waiver or variation from such standards must be approved by either the city council or the planning commission.

Sec. 20-10. – Sample Dedication forms and surveyor's certificate.

The following are sample forms for dedication and surveyor's certificate:

Owner's Dedication

I (We), _____, (identify individual or entity, e.g., a Maryland General Partnership, Limited Partnership, etc.) by _____ owner(s) of the property shown hereon, hereby adopt this plat of (re)subdivision: and grant to the Washington Suburban Sanitary Commission (W.S.S.C.) such exclusive rights as necessary for the construction, reconstruction, operation, maintenance, and repair of sanitary sewers and/or water mains and appurtenances within the water and/or sewer rights-of-way/easements shown hereon, subject to and together with the conditions contained in a right-of-way document from the grantor(s), their successors or assigns, to the W.S.S.C. and to be recorded hereafter.

Further, we dedicate the streets as shown hereon to public use, establish and grant to the City of Gaithersburg, Maryland, or other appropriate agency, temporary slope easements twenty-five feet wide over the lots, outlots and parcels shown hereon, adjacent, contiguous, and parallel to the street lines, the slope easements shall be extinguished after all required public improvements in adjacent roadways have been accepted for maintenance by the City of Gaithersburg, Maryland, or other appropriate agency.

Further, we establish the building restriction line as shown hereon: hereby grant a Public Utilities Easement (P.U.E.) as shown hereon to the parties named in the document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber _____ at Folio _____ among the land records of Montgomery County, Maryland.

Subject to all current and applicable regulations of all federal, state, and local governing agencies: hereby grant a Conservation Easement as shown hereon to the parties named in a document entitled "Conservation Easement Agreement, Category I/II" as recorded in Liber _____ at Folio _____ among the Land Records of Montgomery County, Maryland, subject to all current and applicable regulations of all federal, state, and local governing agencies.

We further grant to the City of Gaithersburg, Maryland, or successors and assigns forever an easement in, on, and over the land herein identified as the Public Improvements Easement (P.I.E.) shown hereon with the terms and provisions of said grant being these set forth in that certain document entitled "Declaration of Easement" recorded among the Land Records of Montgomery County, Maryland, in Liber _____ at Folio _____ which said terms are incorporated hereon by this reference; establish and grant to the City of Gaithersburg, Maryland, storm drain easements as shown hereon; establish the (Septic Easement) (Ingress-Egress Easement) (Equestrian Trail Easement) shown hereon for the use and benefit of Lots _____, Block _____. As owners of this subdivision, we, our successors and assigns will cause all property corner markers and any other required monuments, to be set by a registered Maryland Land Surveyor, in accordance with Chapter 20, Article III, Section 20-32 and ~~Article VI, Section 20-50~~ Article VIII, Section 20-62(d) of the Gaithersburg City Code.

There are no suits, liens, leases, mortgages, or trusts, affecting the property included in this plat of (re)subdivision [except a certain deed of (mortgage) trust and the parties in interest thereto have affixed their signatures hereon indicating their assent to this plat of (re)subdivision.]

| | |
|---------------------|-----------------------------|
| Company Name Here | Date: _____ / _____ / _____ |
| (PRINT NAMES) _____ | Legal Signature: _____ |
| (PRINT NAMES) _____ | Legal Signature: _____ |

We assent to this plan of subdivision

| | |
|---------------------|-----------------------------|
| Witnessed: | Date: _____ / _____ / _____ |
| (PRINT NAMES) _____ | Legal Signature: _____ |
| (PRINT NAMES) _____ | Legal Signature: _____ |

(Note: Omit any wording which may not apply. In case the owner is unmarried, this fact should be stated.)

Dedication Form for Corporations

(Same as foregoing form for individuals except as indicated below)

We, _____ (insert name of corporation) _____, a _____
(name of state) _____ corporation, by _____ (insert name) _____,
President, _____ (Secretary) _____, Secretary, owners of the property,
etc.

Date: _____

Name of Corporation: _____

By: _____

SEAL: _____

President: _____
(PRINT NAMES)

Attest: _____
(PRINT NAMES)

Secretary: _____
(PRINT NAMES)

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ARTICLE II. - PROCEDURE FOR PREPARATION OF PRELIMINARY AND FINAL PLATS

Sec. 20-16. - Approval of final plat by planning commission.

- (a) The final subdivision plat will be approved by the planning commission if found by it to be in conformity with the approved preliminary subdivision plan and the requirements for this chapter, and other applicable laws, and ~~Article II of~~ Chapter 19 of this Code, and of applicable site plan approved for the property pursuant to Article V of Chapter 24 of this Code. The final subdivision plat shall reflect all required dedications of land for public use or any other exaction imposed by the planning commission approval. The signatures of the planning commission chairman and vice-chairman shall be recorded on the approved plat.
- (b) A final subdivision plat may include only a portion of the approved preliminary subdivision plan, provided that the portion covered is in substantial compliance with the approved staging schedule; and provided, that the public improvements to be constructed in the area covered by the plat shall be sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, and convenience of the present and future residents therein, and for adequate access to contiguous areas, schools, and other public sites.

ARTICLE III. - GENERAL REQUIREMENTS AND STANDARDS FOR SUBDIVISIONS

* * * *

Sec. 20-20. - Roads and streets—Plats and plan requirements.

All roads shall be designed in accordance with Chapter 19 of the City Code, ~~except as approved by the traditional neighborhood design option.~~

- (a) *Master plan roads.* Subdivision plats shall include roads and streets shown on the transportation element of the master plan of streets and highways or parts of such adopted plans, or in accordance with the plans of the state highway administration as to state roads and access thereto. Any such streets, roads or highways shown must include either full width dedication of right-of-way or, if authorized by the commission, a recordable agreement to dedicate at no cost to the public.
- (b) *Continuation of roads.* The A proposed subdivision plan shall provide for the continuation of any existing roads or streets (constructed or recorded), sidewalks, pedestrian and bicycle paths in accordance with adopted highway master plans and/or the road construction code Chapter 19 unless otherwise determined by the planning commission.
- (c) *Future subdivisions.* A tract proposed for subdivision into parcels larger than normal building plots intended for future subdivision rather than immediate development shall be divided so as to allow for future opening of streets and such further logical subdivisions as can be foreseen.
- (d) *Residential ~~secondary~~ streets.* Residential ~~secondary~~ streets shall be planned to discourage their use by non-local traffic.
- (e) *Alleys.* Alleys need not normally necessarily be included in a single-family residential subdivision, but shall be required where necessary in any development plan., ~~particularly commercial or industrial development, or when using the traditional neighborhood development (TND) option.~~ Alleys with a minimum right-of-way width of ~~twenty-six (26)~~ twenty (20) feet are encouraged at the rear of residential lots, except when the planning commission finds them impractical or unnecessary.
- (f) *Major street.* Where a subdivision abuts or contains an existing or proposed major street, access to such street shall be a primary consideration and the planning commission may require either of several provisions for that access, such as: (1) parallel streets with lots backing to the streets, where appropriate, together with screen planting strips contained in a non-access easement long the rear lot lines; (2) parallel streets with short culs-de-sac having terminal lots backing to the major street, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- (g) *Private residential streets.* Private residential streets are generally discouraged. If absolutely necessary in a subdivision, they shall be built to ~~structural standards or a tertiary road~~ the standards defined in Chapter 19 of this Code.
- (h) *Railroad crossings.* A subdivision plat involving new or existing streets crossing railroad tracks shall provide adequate right-of-way, including approach right-of-way and slope easements for construction of underpass or overpass unless otherwise determined by the planning commission.
- (i) *Street names.* ~~No~~ All street names shall ~~must~~ be used ~~which have not been~~ approved by the city planning commission.
- (j) *Storm drainage.* In connection with the street improvement program in every new subdivision, the subdivider shall do such grading and provide such drainage ponds and structures and storm sewers as may be required by the city, in accordance with specifications of such city agency.
- (k) *[Subdivider or developer responsibility.]* The subdivider or developer shall be responsible for the dedication of land and/or construction of public streets, parks, and recreation, public transit, and school areas and facilities, and other public owned areas and facilities required to meet the demands of the proposed project or pay a required fee in lieu to the city, as the planning commission shall determine to meet such demands of the project.

* * * *

Sec. 20-23. - Arrangement of blocks; buffer strips.

Each block shall be planned to provide two (2) rows of lots except in the case of a reverse frontage arrangement of a tier of lots adjacent to a limited access or major highway or railroad right-of-way or in other instances where it is deemed essential to provide separation of residential development from incompatible land uses or to overcome specific disadvantages of topography and orientation. A strip of buffer area or common property at least twenty-five (25) feet in width may be required along the rear line of lots in the above instances. It may also be required that such strip of buffer area or common property be screen-planted, or provided with a wall or other sight and sound barrier between the lots and the adjacent highway, railway or other use adversely affecting sight and sound.

- (a) *Residential blocks.* The length, width and shape of residential blocks shall be subject to approval by the planning commission.
 - (1) *Length.* Maximum length of any block ordinarily permitted is sixteen hundred (1,600) feet. Approval of blocks in excess of sixteen hundred (1,600) feet long will be granted only where it is shown that such a plan is the only feasible way of subdividing.

- (2) *Pedestrian and bicycle path.* Pedestrian and bicycle paths shall be provided for access to schools, playgrounds, parks, and other public areas, through long blocks and at other points where required by the planning commission. The paths ~~shall~~ may be located within the right-of-way or provided by easements. The composition of the path shall be ~~determined by the planning commission~~ in accordance with Chapter 19 of this code.
- (3) *Multi-family blocks and access roads.* The design and arrangements of access roads or drives within an apartment or multifamily group dwelling project, together with the required parking facilities and pedestrian walks, shall be subject to review and approval by the planning commission. Determination of whether interior access roads shall be dedicated to public use ~~and constructed to road construction code standards~~ or may be private roads shall be made by the planning commission, ~~upon recommendation of the public road agency concerned.~~
- (b) *Nonresidential blocks.* Blocks designed for business or industry shall be of such length and widths as determined suitable by the planning commission, including adequate provision for off-street parking, deliveries, and truck maneuvering.

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Sec. 20-31. - Street profile plans required.

No subdivision plat shall receive the final approval of the planning commission until the department of public works ~~and engineering~~ has approved a complete set of street profile plans, conforming with the requirements of the planning commission and City Code.

Sec. 20-32. - Monuments and markers.

Monuments and markers, as specified in subsection 20-46(f), and subsection 20-62(d) shall be set as required and as shown on the final subdivision plat.

Sec. 20-33. - Variation of general requirements of chapter.

- (a) Authority of planning commission.
 - (1) *Hardship.* Where the land involved in a subdivision is of such size, shape, or is subject to such title limitations of record, or is affected by such topographical conditions that it is impossible or impractical or would cause singular and consider such variation from the provisions of this chapter as may be reasonably nullifying the intent and purpose of the applicable master plan and the public interest shall be protected. The commission may set conditions of a variation as provided hereafter.
 - (2) *Grounds for modification.* The standards and requirements of this chapter may be modified by the commission which, in the judgment of

the commission, will provide adequate public spaces and improvements for the circulation of traffic, recreation, light, air, and service needs of the tract when fully developed and populated, and which also will provide proper legal provisions to assure conformity to the achievement of the plan. The commission shall also have the power to set conditions of approval and modify or vary the requirements of this chapter where, in the opinion of the commission, the preservation or creation of open space, the prevention of soil erosion or the preservation of exceptional natural topography and trees worthy of preservation in the public interest will be best served thereby.

- (b) Procedure for granting variations.
- (1) *Written request to the commission.* A request for a variation from this chapter shall be addressed to the commission in writing, stating all facts warranting variation.
 - (2) *Resolution.* The decision of the commission shall be in the form of a resolution adopted by the commission.
 - (3) *Conditions.* In granting a variation, the commission may require such conditions in lieu of full compliance as well as, in its judgment, secure substantially the objectives of the requirements so modified and protect the public interest.
 - (4) *General considerations.* Notwithstanding the provisions herein, the commission shall not be authorized to vary or modify the provisions of Chapter 24 of this Code, the road construction ~~code~~ standards of Chapter 19, the building code health laws, or other ordinances or regulations of the city.

ARTICLE IV. - MINOR SUBDIVISIONS: APPROVAL PROCESS

Sec. 20-34. - Minor subdivisions: approval process.

- (a) *Preliminary plan not required.* The submission of a preliminary subdivision plan, in accordance with the provisions of Article V of this Chapter 20, is not required for:
- (1) *Minor lot line adjustment.* The sale or exchange of part of a lot between owners of adjacent lots for the purpose of small adjustments in boundaries; provided:
 - (i) The total area of the adjustment does not exceed five (5) percent of the combined area of the lots affected by the adjustment;
 - (ii) No additional lots are created;
 - (iii) The adjusted lot line is approximately parallel with the original lot line, or if it is proposed to intersect with the original line, it does not significantly change the shape of the lots involved; and
 - (iv) The owner submits a sketch plan for review and approval by the city planning and code administration staff. The sketch plan may

be a copy of the existing record plat with the proposed lot line adjustment added as a dashed line. Any buildings, driveways, or other physical improvements located within fifteen (15) feet of the proposed lot line adjustment must be shown on the sketch plan. In addition, the sketch plan should show any minimum building setback that would be affected by the minor lot line adjustment. The amount of lot area affected by the proposed adjustment must be clearly shown on the sketch plan. Staff must approve, approve with revision, or deny, in writing, the sketch plan within ten (10) business days after the plan is submitted or the sketch plan will be deemed approved, provided it meets requirements (i) through (iii) above. The owner must then submit the final record plat to staff within ninety (90) days of sketch plan approval or the sketch plan will no longer be valid.

- (2) *Conversion of an outlot into a lot.* An outlot may be converted into a lot under the minor subdivision procedures, provided:
 - (i) The outlot is not required open space or otherwise constrained so as to prevent it being converted into a buildable lot;
 - (ii) There is adequate sewerage and water service to the property, which may be either public service and/or approved private septic system/private well;
 - (iii) All public dedications for rights-of-way and public easements are provided, as well as compliance with forest conservation, storm water management and flood plain requirements;
 - (iv) All applicable conditions and/or agreements applicable to the original subdivision and/or site plan approval creating the outlot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any dedications or other exactions, public improvements agreement, conservation easement or building restriction lines;
 - (v) All applicable environmental requirements and guidelines, including the approval of necessary forest conservation and water quality plans, are satisfied prior to recordation of the plat;
 - (vi) The lot contains the minimum land area required under the zoning ordinance and is otherwise developable;
 - (vii) There is no notation on the plat prohibiting or restricting such conversion.
- (3) *Consolidation of two (2) or more lots or a part of a lot into one lot.* Consolidating more than one lot into a single lot is permitted under the minor subdivision procedure, provided any conditions applicable to the original subdivision and site plan approval remain in full force and effect and the number of trips generated on the new lot do not exceed those permitted for the original lots.

- (4) *Further subdivision of a commercial, industrial or multi-family residential lot to reflect a change in a deed, mortgage or lease line.* The creation of a deed, mortgage or lease line within a commercial, industrial or multifamily residential lot does not require that approval of a new subdivision plan. At the owner's discretion, the creation or deletion of internal lots to reflect a new deed, mortgage or lease line may be platted under the minor subdivision procedure. All prior conditions of approval for the original subdivision and site plan remain in full force and effect and the number of trips generated on any new lot will not exceed those permitted for the original lot. Any necessary cross-easement, covenants, or other deed restrictions necessary to perpetuate previous approvals must be executed prior to recording the record plat.
- (5) *Plat of correction.* A plat may be recorded under the minor subdivision procedure to correct or update inaccurate or incomplete information shown on a previously recorded subdivision plat. The plat may correct drafting or dimensional errors on the drawing; failure to include a required lot, dedication, easement or other restriction; incorrect or omitted signatures; and/or other information normally required to be shown on a record plat. All owners and trustees of the land affected by the correction must sign the revised plat. In addition, the plat of correction must clearly identify the revised plat. In addition the plat of correction must clearly identify the original plat that is being replaced and contain a note identifying the nature of the correction.
- (6) *Plats for certain residentially zoned parcels created by deed prior to December 2, 1974.* While recognizing the single residential parcel exemptions of subsection 20-6(c), an owner may voluntarily submit a plat to record such a parcel under the minor subdivision procedure provided that the parcel is to be developed with only one single family, detached dwelling unit.
- (7) *Plats reflecting additions to previously platted lots or parcels by virtue of abandonment of public rights-of-way.* A plat may be recorded under the minor subdivision procedure to reflect additions to previously platted lots or parcels by virtue of abandonment of public rights-of-way pursuant to Article III, Chapter 19 of the City Code, provided that any condition of abandonment and any applicable conditions on the original subdivision and site plan approval remain in full force and effect.
- (8) *Plats covering right of way dedications, easements for public benefit, or donations or gifts of land.* A plat may be recorded under the minor subdivision procedure to cover right of way dedications, easements for public benefit, or donations or gifts of land in fee to the City of Gaithersburg, government body or government instrumentality or any community development corporation organized pursuant to Chapter 6A of the City Code.
- (b) *Procedure for platting a minor subdivision.* The owner of property that satisfies the requirements for a minor subdivision, as specified in subsection 20-34(a)

above, may submit an application for record plat approval in accordance with the provisions of Article VI of this chapter. In the case of a minor lot line adjustment, a resubdivision of a part of a lot into a lot, or the consolidation of two (2) or more lots into one lot, no additional public improvements may be required by the reviewing agencies beyond those required for the original subdivision.

- (c) *{Minor subdivision; resubdivision.}* Minor subdivision approvals are not subject to the resubdivision criteria of sections 20-54 and 20-55 of this Code.
- (d) *{All zoning requirements must be satisfied.}* Any lot created through the minor subdivision process and any lot replatted as a part of a minor lot line adjustment must satisfy all applicable zoning requirements as contained in Chapter 24 of this Code.

ARTICLE V. - PRELIMINARY SUBDIVISION PLAN

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Sec. 20-37. - Preliminary staff check and referral plan.

If, after a preliminary check by the city planning and code department, the plan appears to incorporate the preapplication determinations, or if the plan generally appears complete, two (2) copies each of the plan will be referred to the appropriate governmental agencies having a direct interest in the installation and maintenance of utilities or roads to serve the subdivision, for their review and recommendation with respect to approval of the plan. The agencies which shall make such reviews are as follows:

- (a) The Washington Suburban Sanitary Commission shall review plans as to their suitability for water and sewer service.
- (b) The county health department shall review plans for sanitation requirements, particularly as to suitability of proposed lots for individual wells and septic systems.
- (c) The department of public works ~~and engineering~~ shall review plans as to the suitability of the proposed roads or streets to meet the requirements of ~~Article II of~~ Chapter 19 of this Code and other applicable portions of this Code and other ordinances of the city.
- (d) The state highway administration shall review plans for right-of-way requirements along state roads and for suitability of proposed entrances to state roads. The county department of public works and transportation shall review plans for right-of-way requirements and access on county roads.
- (e) The county planning board shall review the plans when the property extends beyond the corporate limits of the city or when problems relating to regional parks, highways, or other matters within the purview of the county planning board will be affected by the proposed plan. The plan will be referred to any municipality affected which has filed a request with the

planning commission for an opportunity to review subdivision or resubdivision plans within or adjacent to such municipality.

- (f) The county board of education shall review the plan in cases involving existing or proposed school sites.
- (g) When it is necessary, a plan shall be referred to an agency of the federal government, such as national park service or the national capital planning commission, in connection with federal parks, highways, or federal buildings or facilities.
- (h) Appropriate gas, electric and telecommunication utilities/companies shall review plans as to right-of-way requirements.
- (i) The emergency services agencies shall review plans as to accessibility requirements.

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ARTICLE VI. - FINAL SUBDIVISION PLAT

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Sec. 20-49. - State highway administration to approve subdivision containing or abutting state roads.

Whenever a final subdivision plat submitted to the planning commission for approval contains or abuts a state road, such record plat will be referred to the state highway administration for approval of the proposed right-of-way, subject to the provisions of Section 20-38.

* * * *

Sec. 20-52. -~~Limitations on issuance of building permits.~~ Save

~~A building permit may not be issued for the construction of a dwelling or other building or structure, except structures or dwellings on a farm for agricultural use, or where property is exempted from application of this chapter, unless such building or structure is to be located on a lot or parcel of land which is shown on a plat recorded in the plat books of the county land records. A building permit may not be approved for a building or structure which is located on more than one lot, crosses a lot line, or is located on an outlet. Provided, however, a building permit may be issued for an above grade building or structural projection which projects across a lot line when authorized by the planning commission and when an appropriate easement is recorded on the lot or parcel which receives the projection.~~

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ARTICLE VIII. - STREET PROFILES AND GRADE ESTABLISHMENTS

Sec. 20-58. - Filing of preliminary study of street grades; contents of preliminary street profiles.

Whenever street profiles are required by the planning commission in connection with its review of the preliminary site plan, subdivision plan, a preliminary study of street grades shall be filed with the planning commission when the preliminary subdivision plan for the same area is presented for approval. The preliminary street profiles shall show existing center line and property line grades and proposed center line grade, grade percentage, location and length of vertical curves, and elevations of street intersections. All elevations shall be based on Washington Suburban Sanitary Commission District datum or the datum of the original subdivision or the North American Datum. Profiles and grades shall comply with ~~Article II~~ of Chapter 19 of this Code. Specifications and procedures in regard to establishment of street grades shall also comply with provisions of Article II of Chapter 19 of this Code.

* * * *

Sec. 20-60. - Requirements for final street profile plans.

The final street profile plans should conform to the standards of ~~Montgomery County~~ Chapter 19 of this Code.

Sec. 20-61. - Approval of grade prerequisite to utility installation, final grading and sidewalk and pavement construction.

No final grading, sidewalk or pavement construction or installation of utilities shall be permitted in the bed of any proposed street in any subdivision until the street grade has been officially established and the plat of same approved by the planning commission in final form and placed on record and a permit obtained from the city council pursuant to ~~Article II~~ of Chapter 19 of this Code. All improvements in public streets or roads shall be under the jurisdiction of, and by authority of, the city department of planning and code administration.

A plat shall be filed and recorded to effectuate the dedication of a highway, street or alley or any part thereof, unless otherwise determined by the city. Recordation of the plat among the land records shall constitute acceptance of the land so dedicated.

Sec. 20-62. - Required public improvements.

The following public improvement(s) shall be required.

- (a) *Construction of new roads, sidewalks, etc.* The roads, streets, alleys, sidewalks, and pedestrian and bicycle paths with appurtenant drainage, street trees, and other integral facilities in each new subdivision must be constructed in accordance with the approved subdivision and site plan by the subdivider or developer under the specifications of the city road construction code, or the requirements of the applicable governmental jurisdiction, whichever is applicable. Sidewalks should be connected.

- (b) *Existing ~~frontage~~ roads fronting lots.* In the case of a plat containing lots fronting on an existing state, county, or municipally maintained road, the developer or the subdivider shall provide, in addition to any required dedication for widening the existing right-of-way, such reasonable improvement to the road in front of such lots as is necessary to serve the needs of such subdivision for access and traffic and storm drainage as required by the approved subdivision and site plan, the road construction code, and including the provision of sidewalks.
- (c) *Pedestrian and bicycle paths.* Where the mid-block pedestrian and bicycle path is included in a subdivision plan and is dedicated to public use, the subdivider shall do such grading and provide such drainage structures and storm sewers as may be required by the state highway administration, appropriate agency of Montgomery County or the city, in accordance with specifications of such agency and the Washington Suburban Sanitary Commission, if within the Washington Suburban Sanitary District.
- (d) *Markers and monuments.*
- (1) Permanent reference monuments shall be placed as required by the commission. Such permanent reference monuments shall be stone or concrete at least thirty-six (36) inches in length and six (6) inches square with suitable center point and shall be set flush with the ground. Additional monuments may be required to delineate specific easements including, but not limited to, conservation easements.
 - (2) Metal property line markers, three-quarters ($\frac{3}{4}$) of an inch in diameter and twenty-four (24) inches in length, shall be placed in the ground at all lot corners, intersections or streets, intersections of streets and alleys, with plat boundary lines, and at all points on street, alley and boundary lines where there is a change in direction or curvature, unless such point coincided with the location of a reference monument and all lot and property corners. All markers shall be properly set in the ground before the streets and alleys are accepted for public maintenance.
 - (3) After completion of road, street, and alley grading and paving in the subdivision and the grading and landscaping of lots adjacent thereto, it shall become the duty of the registered professional land surveyor or property line surveyor hired by the developer or owner to place the monuments in the ground as specified on the record plat. Prior to acceptance for maintenance by the county or the city of any roads, streets, or alleys, a certificate by the registered land surveyor shall be presented to the appropriate agency of Montgomery County or the city as may be applicable that the survey monuments and markers are in place.
- (e) *Water and sewage disposal.* Where public water and sewage are available or when private central water or sewer is required, installation shall be made or assured and in cases where neither public nor central

service is required, approved water supply and sewage disposal shall be installed or assured, for each lot as required herein or by other applicable statute or regulations.

- (f) *Adequate public facilities.* All adequate public facilities requirements shall be met as specified in Chapter 20, section 20-14, or Chapter 24, section 24-171.
- (g) *Installation of improvements.* All public improvements and all private common area improvements shall be completed or assured as provided in the zoning ordinance, these subdivision regulations or by decision of the planning commission on any subdivision or site plan approval.
- (h) *Street lights.* The developer or subdivider must provide street lights under specifications, requirements, and standards prescribed by the appropriate agency of Montgomery County or by the city department of public works, whichever shall be applicable.
- (i) *Storm water management.* All storm water management requirements shall be met as per the requirements of Chapter 8 of this Code.
- (j) *Facilities or utilities in public rights-of-way.* All construction of facilities or utilities, whether public or private, are subject to ~~section 19-9A~~ Chapter 19 and shall meet the applicable requirements set forth in right-of-way standards adopted by regulation pursuant to section 2-10.

* * * *

ARTICLE X. - CONSTRUCTION LIMITATIONS

Sec. 20-73. - Limitations of building permits.

- (a) A building permit must not be approved for the construction or expansion of a dwelling, building, or other structure, unless such improvements ~~have~~has access to a public street and is located on a lot or parcel of land which is shown on a plat approved by the planning commission and recorded in the ~~plat books~~ Land Records of the county. Provided, however, and notwithstanding anything to the contrary stated within subsection (a) a building permit may be issued for the following:
 - (1) A parcel covered by an exception specified in section 20-6 of this chapter;
 - (2) Interior renovations of existing construction.
 - (3) A building or structure used primarily for agricultural purposes.
- (b) A building permit ~~may~~must not be approved for the construction or expansion of a dwelling, building, or other structure, ~~except those strictly for agricultural use, which~~ where such improvement is located on more than one lot, which crosses a lot line, which is located on the unrecorded remainder of a resubdivided lot, or which is located on an outlot, except as follows ~~Provided, however, and notwithstanding anything to the contrary stated within subsection (b), a building permit may be issued for the following:~~

- (1) Projections for the roof, eaves, wall projections such as sills, ornamental or cantilever features or retaining walls, and foundation footings, which project not more than two (2) feet across the vertical plane of the lot line; provided, appropriate perpetual easements are recorded on the abutting property.
- (2) An underground public facility or amenity that crosses the vertical plane of any lot line, as projected below grade.
- (3) An underground parking facility that crosses the vertical plane of any lot line, as projected below grade, and extends:
 - (i) Into a public right-of-way, if approved by the city or other appropriate public authority; or
 - (ii) Into abutting private property for which there is a recorded perpetual easement authorizing such projections.
- (4) A building or structure used primarily for agricultural purposes.

* * * *

ARTICLE XIII. - VIOLATIONS OF CHAPTER

Sec. 20-82. - Enforcement; penalties.

- (a) Violations of this chapter are declared to be municipal infractions and enforceable pursuant to the provision of section 1-9. The maximum penalty for each initial and repeat violation shall be established by resolution of the city council, but in no case shall the maximum permissible penalty exceed that penalty provided for in ~~Article 23A~~ the Local Government Article of the Annotated Code of Maryland. Each day a violation exists may be deemed a separate violation.
- (b) In addition to any other enforcement action or penalty provided for in this section, the city is authorized to:
 - (1) Withhold, suspend or revoke any building permit and/or use and occupancy certificate; and/or
 - (2) Seek such legal or equitable relief in any court of competent jurisdiction and such court shall be authorized to issue appropriate orders, decisions or decrees granting the relief, if requested, or such other and further relief as the court deems just and proper.
 - (3) Forfeit any bonds or security posted by the developer of the project.

* * * *

ADOPTED by the City Council of the City of Gaithersburg, this ____ day of _____, 2018.

JUD ASHMAN, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this ____ day of _____, 2018. APPROVED by the Mayor of the City of Gaithersburg this ____ day of _____, 2018.

JUD ASHMAN, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2016, and the same was APPROVED, by the Mayor and City Council of the City of Gaithersburg, on this ____ day of _____, 2018. This Ordinance will become effective on the ____ day of _____, 2018.

Tony Tomasello, City Manager