

Bill No. 16-10
Concerning: Amendments to Chapters 1-19 (Zoning),
1-20 (Adequate Public Facilities), and 1-25 (Develop-
ment Rights and Responsibilities Agreements)
Revised: _____ Draft No. _____
Introduced: July 5, 2016
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Frederick County Code, Chapter 1-19, Section(s) _____
10.500.4; Chapter 1-20, Sec. 20; Chapter 1-25, Sec. 4

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Otis on behalf of County Executive Jan Gardner

AN ACT to:

Amend Chapters 1-19, 1-20, and 1-25 of the Frederick County Code to repeal the changes made by Ordinance No. 12-04-599, and to confirm that the determination of adequacy under Chapter 1-20 shall be made only by the Frederick County Planning Commission.

By amending:

Frederick County Code, Chapter 1-19, Section(s) 10.500.4

Other: and Chapter 1-20, Section 20; Chapter 1-25, Section 4

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>

Bill No. 16-10

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapters 1-19 (Zoning), 1-20 (Adequate Public Facilities), and 1-25 (Development Rights and Responsibilities Agreement) of the Frederick County Code to repeal the changes made by Ordinance No. 12-04-599, and to confirm that the determination of adequacy under Chapter 1-20 shall be made only by the Frederick County Planning Commission.

NOW, THEREFORE, BE IT ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland

CHAPTER 1-19 (ZONING):

§ 1-19-10.500.4. REVIEW AND APPROVAL PROCEDURES.

Review and approval of the Planned Development District includes a preapplication conference, neighborhood meeting, Phase I justification and floating zone reclassification, and Phase II execution. The applicant must obtain all necessary approvals at each phase prior to proceeding to the next phase.

(A) *Preapplication conference.* Prior to a Phase I application submission, a preapplication conference shall be held with the Community Development Division. The conference is intended to provide information to the applicant regarding application requirements, review and approval procedures, neighborhood meeting requirements, discussion of development constraints and opportunities, county policy initiatives, and the County Comprehensive Plan. The applicant shall submit preapplication information in a format acceptable to the Community Development Division, including: a description of the tract of land for which the Planned Development District is proposed; existing and proposed land uses; existing historic and natural features; or other information as required to adequately evaluate the application.

(B) *Neighborhood meeting.* Prior to submitting a Phase I application the applicant shall hold a neighborhood meeting. The meeting will provide an opportunity to identify impacts that the project may have on the neighborhood surrounding the proposed project.

(C) *Phase I justification and floating zone reclassification.* The procedure for Phase I approval is the same as for zoning map amendments set forth in §§ 1-19-3.110.1 through 1-19-3.110.6.

(1) Prior to Phase I application the tract of land receiving the proposed Planned Development District shall be classified as Planned Service or higher on the Frederick County Water and Sewerage Plan.

(2) Phase I approval shall include approval of a concept plan graphically illustrating the project. The concept plan shall be submitted for review as part of the Phase I application.

(D) *Phase II execution.* The procedure for Phase II approval shall follow the applicable subdivision or site development plan review process.

(1) Prior to Phase II application the Planned Development District property must be classified at least W4/S4 on the Frederick County Water and Sewerage Plan.

(2) Subsequent to Phase I approval and prior to or concurrent with Phase II approval [(or as part of a development rights and responsibilities agreement in accordance with Chapter 1-25)] the applicant shall obtain Adequate Public Facilities Ordinance (APFO) approval in accordance with Chapter 1-20 of the Frederick County Code.

(3) Subdivision shall occur in accordance with county subdivision regulations. Site development plan review shall occur in accordance with §§ 1-19-3.300 through 1-19-3.300.4.

* * *

CHAPTER 1-20 (APFO):

§ 1-20-20. ADMINISTRATIVE AGENCY /DETERMINATION OF ADEQUACY.

(A) The Adequate Public Facilities Ordinance shall be administered by the Community Development Division (CDD). All applications, maps, and documents relative to subdivision, PUD, MXD, PDR, or PDE Phase II or site plan approval and subject to the provisions of this chapter shall be submitted to CDD which will review all information and present the relevant information and its recommendations to the Planning Commission [or to the county as provided below in subsection (C)].

(B) [Except as provided below in subsection (C),] Final determination of adequacy shall be the responsibility of the Planning Commission.

[C) The county governing body may make a final determination of adequacy when APFO approval is included as part of a development rights and responsibilities agreement under Chapter 1-25 of this code. In such circumstances, "county governing body" shall be substituted for "Planning Commission" in all applicable provisions of this chapter.]

* * *

CHAPTER 1-25 (DRRA):

§ 1-25-4. CONTENTS OF DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

(A) At a minimum, a development rights and responsibilities agreement shall contain the following:

- (1) A lawyer's certification that applicant has either a legal or equitable interest in the property;
- (2) The names of all persons having an equitable or legal interest in the property, including lien holders;
- (3) A legal description of the property subject to the agreement;
- (4) The duration of the agreement;
- (5) The permissible uses of the property;
- (6) The density or intensity of use of the property;
- (7) The maximum height and size of structures to be located on the property;
- (8) A description of permits required or already approved for the development of the property;

- (9) A statement that the proposed development plan is consistent with the Comprehensive Plan and all applicable county regulations;
- (10) A description of the conditions, terms, restrictions or other requirements determined by the county to be necessary to ensure the public health, safety or welfare; and
- (11) To the extent applicable, provisions for the:
 - (a) Dedication of a portion of the property for public use;
 - (b) Protection of sensitive areas;
 - (c) Preservation and restoration of historic structures;
 - (d) Construction or financing of public facilities; and
 - (e) Responsibility for attorney's fees, costs, and expenses incurred by the county in the event an agreement is abandoned or breached by the applicant.

(B) An agreement may contain other terms, provisions, requirements and agreements concerning the property which may be agreed upon by the county and the applicant.

(C) An agreement may fix the time frame and terms for development and construction on the property.

(D) An agreement may provide for other matters consistent with this chapter[including Adequate Public Facilities Ordinance approval in accordance with Chapter 1-20].

(E) All persons with a lien interest in the property must execute the agreement.

(F) Any superior interest with a power of sale must be subordinated to the position of the county or acceptable financial guarantees must be provided.