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The following Article is part of the Consolidated Draft. Please be advised that it is in draft form; all references to Divisions and Sections have not been cross-checked in this draft. Editor's notes in red text and highlighted in yellow, [Editor's Note], appear throughout the draft to inform the reader of areas that may require additional research and editing.

Div. 8.1. Review Authority & Approvals Required

Sec. 8.1.1. Overview of Review & Approval Authority

The various applications must be reviewed and approved by the established reviewing bodies. The following table provides an overview of the authority granted the various bodies under this Chapter; additional authority may be granted elsewhere in the Montgomery County Code. Details of the required applications, noticing, meetings, hearings, and post-decision processes are discussed in subsequent Divisions. This table does not define legal responsibilities and is only provided for the convenience of the reader.

Approval Requested	Section Reference	Authority							
		Sign Review Board	DPS Director and/or Staff	Development Review Committee	Planning Director and/or Staff	Planning Board	Hearing Examiner	Board of Appeals	District Council
District Council Approvals									
Floating Zone Map Amendment	8.2.1.			I	R	R	R		D
Change or Mistake Map Amendment	8.2.2.				R	R	R		D
Minor Corrective Map Amendment	8.2.3.				R	R			D
Major Corrective Map Amendment	8.2.4.				R	R	R		D
Sectional Map Amendment	8.2.5.				R	R			D
District Map Amendment	8.2.6.				R	R			D
Zoning Text Amendment	8.2.7.		R		R	R			D
Regulatory Approvals									
Conditional Use Plan	8.3.1.			I	R	I	R/D	D	
Variance	8.3.2.				I	I	I	D	
Sketch Plan	8.3.3.			R	R	D			
Site Plan	8.3.4.			R	R	D			
Administrative Approvals									
Building Permit	8.4.1		D				I	A	
Use & Occupancy and Temporary Use Permit	8.4.2		D				I	A	
Home Occupation and Home Health Practitioner Registration	8.4.3		D						
Sign Permit	8.4.4		D				I	A	
Sign Permit Variance	8.4.5	R	D				I	A	
Sign Installer License	8.4.6		D						
Written Interpretation	8.4.7		D		R	R			

KEY: A = Appeal D = Decision I = If requested by a reviewing, deciding, or appellate body R = Review and recommendation

Sec. 8.1.2. Overview of Approvals Required

Required approvals will depend on the development method, the zone of the property, use, density, height, and/or zone of the adjacent property. The following table provides an overview of the approvals required under this Article. Details of the required submittal requirements and necessary criteria for approval are discussed in the Sections referenced. These explanations are not legal definitions and are only provided for the convenience of the reader.

Application	Section Reference	Applicability
District Council Approvals		
Floating Zone Map Amendment	8.2.1.	A local zoning change to apply a Floating Zone to a specific tract of land.
Change or Mistake Map Amendment	8.2.2.	A local zoning change to apply a “Euclidean” zone to a specific tract of land based on a change in the character of a neighborhood or a mistake in a comprehensive rezoning.
Minor Corrective Map Amendment	8.2.3.	Correction of an administrative or technical error in the application of a comprehensive rezoning.
Major Corrective Map Amendment	8.2.4.	Correction of an error in the findings of fact in the application of a comprehensive rezoning.
Sectional Map Amendment	8.2.5.	A comprehensive rezoning of an area of the county implementing a Master or Sector Plan.
District Map Amendment	8.2.6	A comprehensive rezoning of an area, areas, or the entire county implementing a comprehensive report or Functional Master Plan.
Zoning Text Amendment	8.2.7.	A change in the text of this Code.
Regulatory Approvals		
Conditional Use Plan	8.3.1.	Use of any property for a conditional use, as designated by Article 59-3.
Variance	8.3.2.	A request for modification of any requirement of the this Code.
Sketch Plan	8.3.3.	Development under the optional method.
Site Plan	8.3.4.	Development under optional method requires approval of a Site Plan after approval of a Sketch Plan; development under a Floating Zone requires approval of a Site Plan after approval of a Floating Zone Map Amendment. Development under standard method requires Site Plan approval as indicated in Section 8.3.4.
Administrative Approvals		
Building Permit	8.4.1	Required before any building or structure can be erected, moved, structurally altered, added to, or enlarged and before any excavation can be started. See exemptions in Section 8.4.1
Use & Occupancy and Temporary Use Permits	8.4.2	Required before any building, structure, or land can be used or can be converted, wholly or in part, from one use to another. See exemptions in Section 8.4.2
Home Occupation and Home Health Practitioner Registration	8.4.3	All low impact and major impact home occupations and low impact and major impact home health practitioners must register with the DPS.
Sign Permit	8.4.4	A sign permit is required when a sign is constructed, erected, moved, enlarged, illuminated, or substantially altered. Routine maintenance, including painting, cleaning, changing copy where permitted, or changing copy in compliance with a sign concept plan, does not require a permit. See exemptions in Section 7.6.3.

Application	Section Reference	Applicability
Administrative Approvals (continued)		
Sign Permit Variance	8.4.5	Any sign not listed in Div 7.6, or which does not conform to the requirements in Div 7.6, may apply for a sign permit variance from DPS.
Sign Installer License	8.4.6	The provisions of the sign installer license apply to a business which chooses to provide certification as a licensed sign installer.
Written Interpretation	8.4.7	[Editor's note: text to be added]

Div. 8.2. District Council Approvals

Sec. 8.2.1. Floating Zone Map Amendment

A. Applicability & Description

1. A local zoning change to apply a Floating Zone to a specific tract of land requires approval of a Floating Zone Map Amendment.
2. A Floating Zone Map Amendment is the written and drawn description of a development using a Floating Zone under **Article 59-5**, which is intended to implement comprehensively planned and integrated developments with specific land uses and building types.
3. The Floating Zone Map Amendment is intended to provide sufficient information on the applicant's projected land development in order to allow the District Council to make the necessary findings. In this context, the application must comply with the General Plan, the applicable Master or Sector Plan, this Code, and approval of the Floating Zone Map Amendment must be in the public interest.

B. Application Requirements

1. The Hearing Examiner provides the intake procedures for all Floating Zone Map Amendment applications.
2. The date of the Hearing Examiner's public hearing on a Floating Zone Map Amendment is held within 90 days of the date an application is accepted.
3. An application for a Floating Zone Map Amendment may be made only by an entity or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. If any land or right-of-way encompassed by a site plan application is owned or controlled by the state, county, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the site plan application.
5. Disclosure of ownership must conform to **Article 28** of the Annotated Code of Maryland.
6. A pre-application meeting with Planning Department Staff is recommended.

7. The following public notice is required under Div. 8.6:
 - a. posting of site with signage;
 - b. mailed notice of the filed application; and
 - c. mailed notice of the public hearing date.
8. The applicant must submit the following:
 - a. application form and fees approved by the District Council;
 - b. documentation of interest in the proposed development site under **Sec. 8.2.1.B.1.**;
 - c. statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application;
 - d. exhibits showing:
 - i. existing site conditions and vicinity;
 - ii. building densities, massing, heights, and the anticipated mix of uses;
 - iii. locations of open spaces and environmental site design strategy;
 - iv. pedestrian, bicycle, and vehicular circulation, parking, and loading; and
 - v. relationships between existing or approved adjacent land uses, buildings, and rights-of-way;
 - vi. a general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications; and
 - vii. textual stipulations of the binding elements on the application.
 - e. an unexecuted covenant suitable for filing in the land records reflecting any restricted development standards, development program, or limited uses that will be applicable to the property if the District Council approves the application;
 - f. supporting plans and documentation as required by the reviewing agencies;

- g. Applications may not be modified to increase the area proposed to be reclassified or as to the zone requested without providing revised signage and additional mailed notice; and
- h. Applications must be available to public inspection during regular office hours but must not be removed from the custody of the reviewing agency except pursuant to court order or by a member of the District Council, the County Attorney, or the Hearing Examiner.

C. Review and Recommendation

1. Planning Director Review

- a. Review by the Development Review Committee may be completed at the discretion of the Planning Director.
- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general a minimum of 10 days before the Planning Board hearing.

2. Planning Board Review

- a. A public hearing on the Planning Director's report and recommendation must be held by the Planning Board.
- b. The Planning Board must provide a recommendation on the application to the Hearing Examiner a minimum of 15 days before the Hearing Examiner's public hearing.

3. Hearing Examiner Review

- a. A public hearing must be held by the Hearing Examiner.
- b. The Hearing Examiner may postpone the public hearing at any time at least 10 days before the scheduled date and must provide mailed notice of the new hearing date.
- c. The Hearing Examiner may issue subpoenas to compel the attendance of witnesses and production of documents at any public hearing and administer an oath to any witness.
- d. Within 45 days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the District

Council that must also be made available to the applicant and public in general.

- e. The Hearing Examiner may extend the time to forward the report and recommendation once by 45 days without the District Council's approval and again by 45 days with the District Council's approval.
- f. Within 10 days after transmittal of the Hearing Examiner's report and recommendation any aggrieved party may file a written request for an opportunity to present oral argument before the District Council. The request must state the matters desired to be presented at the oral argument and, if oral argument is granted, the argument must be limited to matters contained in the record compiled by the Hearing Examiner. The District Council may grant or deny an oral argument request. Thereafter, the matter must be decided either as provided in [Sec. 8.2.1](#), or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.
 - i. Within 5 days after a request for oral argument is filed with the Hearing Examiner's office, any interested party may rebut, in writing, a request for oral argument or request to participate in oral argument if oral argument is allowed. Any rebuttal must be concise and limited to matters raised by the party who requested oral argument. Any rebuttal to a request for oral argument must be sent to the Hearing Examiner and each party who participated at the hearing, as listed by the Hearing Examiner.

D. Approval Criteria

To approve a Floating Zone Map Amendment, the District Council must find that the Floating Zone Map Amendment will:

1. Further the objectives of the general plan and other applicable county plans and policies and not conflict with the objectives and recommendations of the applicable Master or Sector Plan;
2. Be in the public interest by supporting legally adopted policies or regulations;
3. Meet the standards, requirements, and purposes of the zone;

4. Be integrated and compatible with existing and approved adjacent development;
5. Propose adequate and safe internal infrastructure, circulation, open space, public amenity, and pedestrian and/or transportation opportunities; and
6. Provide a development phasing program that is sufficient to ensure a continued balance of development and public improvements.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner's recommendation with modifications, conditions, or binding elements, except when the Floating Zone is not recommended by the applicable Master or Sector Plan and the Planning Board does not recommend approval of the application, in which case a vote of 6 members is required. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Hearing Examiner for further consideration.
4. The District Council must issue a resolution reflecting its decision on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a Floating Zone Map Amendment is denied, a new application proposing substantially the same development for the same property may not be filed within 36 months after the date of the resolution unless the District Council finds that the applicant has shown substantive new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured

from the date of the District Council's resolution or the final court action, as applicable.

3. If a Floating Zone Map Amendment is approved, a Site Plan(s) must be submitted under this Article within 36 months of date of the Resolution or the application becomes invalid and the subject property reverts to the previous zone(s).

G. Scope of Approval

1. Approval of a Floating Zone Map Amendment entitles the applicant or successor to file a Site Plan(s) for the subject site.
2. The binding elements or conditions approved by the District Council are binding upon the applicant, successors, and assigns.

H. Recording Procedures

1. An executed covenant reflecting any restrictions on the development standards, development program, or uses contained in the approved Floating Zone Map Amendment must be filed in the land records. Certification of the filing must be provided to the Planning Board for any subsequent Site Plan(s). Covenants must remain in effect until the property is rezoned or an amendment to the Floating Zone Map Amendment is approved and the covenant is amended.
2. The Floating Zone Map Amendment revised in accord with the District Council's resolution must be provided to the Hearing Examiner for certification.
3. The certified Floating Zone Map Amendment must be maintained in the permanent files of the Hearing Examiner.
4. A copy of the District Council's resolution and certified Floating Zone Map Amendment must be sent to the Planning Director to update the zoning map.

I. Amendments

1. Major amendments to an approved Floating Zone Map Amendment follow the same procedures as an original application. Major amendments include any requests to increase density or height, add a previously disallowed use, or make changes to any binding elements or conditions of approval.

2. Minor amendments to an approved Floating Zone Map Amendment may be approved administratively by the Hearing Examiner. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; or alter the approved binding elements.
 - a. The following public notice is required under Div. 8.6:
 - i. posting of site with signage; and
 - ii. mailed notice of the filed application.
 - b. Public Hearing
 - i. A public hearing is not required if no objection to the application is received within 15 days of the mailed notice of the filed application.
 - ii. If an objection to the application is received within 15 days of the mailed notice of the filed application a public hearing must be held under the same procedures as an original application.

Sec. 8.2.2. Change or Mistake Map Amendment

A. Applicability & Description

1. A local zoning change to apply a Euclidean zone to a specific tract of land based on a change in the character of a neighborhood or a mistake in a comprehensive rezoning requires approval of a Change or Mistake Map Amendment.
2. A Change or Mistake Map Amendment is the written and drawn description of a specific tract of land and the rationale in support of the application.
3. The Change or Mistake Map Amendment is intended to provide a detailed rationale of the applicant's case that a change in the character of a neighborhood has occurred since the previous comprehensive rezoning or that a mistake was made during that rezoning. In this context, the application will be used to determine if evidence has been produced in support of the applicant's case.

B. Application Requirements

1. The Hearing Examiner provides the intake procedures for all Change or Mistake Map Amendment applications.

2. The date of the Hearing Examiner's public hearing on a Change or Mistake Map Amendment is held within 90 calendar days of the date an application is accepted.
3. An application for a Change or Mistake Map Amendment may be made only by an entity or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. Disclosure of ownership must conform to Article 28 of the Annotated Code of Maryland.
5. A pre-application meeting with Planning Department Staff is recommended.
6. The following public notice is required under Div. 8.6:
 - a. posting of site with signage
 - b. mailed notice of the filed application; and
 - c. mailed notice of the Hearing Examiner public hearing.
7. The applicant must submit the following:
 - a. application form and fees approved by the District Council;
 - b. documentation of interest in the proposed development site under Sec. 8.2.2.B.1.;
 - c. statement of justification and illustrative exhibits showing:
 - i. the subject property and the proposed neighborhood showing uses and zoning;
 - ii. a description of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning or evidence of the alleged mistake made by the District Council; and
 - iii. a description of how the changes in the neighborhood have rendered the property without reasonable use under the current zoning; or
 - iv. a description of why the result of the mistake made by the District Council is that a different zone should have been applied to the property.
 - d. supporting plans and documentation as required by the reviewing agencies.

C. Review and Recommendation

1. Planning Director Review

- a. Review by the Development Review Committee may be completed at the discretion of the Planning Director.
- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general.

2. Planning Board Review

- a. A public hearing on the Planning Director's report and recommendation must be held by the Planning Board.
- b. The Planning Board must file a recommendation on the application to the Hearing Examiner no later than 15 days before the public hearing.

3. Hearing Examiner Review

- a. A public hearing must be held by the Hearing Examiner.
- b. The Hearing Examiner may postpone the public hearing at any time at least 10 days before the scheduled date and must provide mailed notice of the new hearing date.
- c. The Hearing Examiner may issue subpoenas to compel the attendance of witnesses and production of documents at any public hearing and administer an oath to any witness.
- d. Within 45 days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the District Council that also must be made available to the applicant and public in general.
- e. The Hearing Examiner may extend the time to forward the report and recommendation once by 45 days without the District Council's approval and again by 45 days with the District Council's approval.
- f. Within 10 days after transmittal of the Hearing Examiner's report any aggrieved party may file a written request for an opportunity to present oral argument before the District Council. The request must explicitly state the matters desired to be presented at the oral argument and,

if oral argument is granted, the argument must be limited to matters contained in the record compiled by the hearing examiner. The District Council may, in its discretion, grant or deny an oral argument request. Thereafter, the matter must be decided either as provided in [Sec. 8.2.2.E](#), or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

- i. Within 5 days after a request for oral argument is filed with the Hearing Examiner's office, any interested party may rebut, in writing, a request for oral argument or request to participate in oral argument if oral argument is allowed. Any rebuttal must be concise and limited to matters raised by the party who requested oral argument. Any rebuttal to a request for oral argument must be sent to the Hearing Examiner and each party who participated at the hearing, as listed by the Hearing Examiner.

D. Approval Criteria

To approve a Change or Mistake Map Amendment, the District Council must find that, although the zoning established by the original zoning and/or comprehensive rezoning is presumed correct,:

1. Evidence has been produced by the applicant of a substantial change in the character of the neighborhood since the original zoning or comprehensive rezoning or that a mistake was made by the District Council; and
2. That for this reason, the result of the change is that no reasonable use can be made of the property in its current zoning classification or the result of the mistake made by the District Council is that a different zone should have been applied to the property.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner's recommendation and issue a resolution reflecting the District Council's decision. If the required number affirmative votes are not obtained, the application is disapproved.
3. The District Council must issue a resolution on the application within 60

days of the close of the record, unless such time is extended by the District Council.

4. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a Change or Mistake Map Amendment is denied, a new application proposing substantially the same development for the same property may not be filed within 36 months after a final decision unless the District Council finds that the applicant has shown substantial new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a Change or Mistake Map Amendment entitles the applicant or successor to develop under the approved zone per the requirements of this Chapter.

H. Recording Procedures

1. A copy of the Change or Mistake Map Amendment revised in accord with the District Council's resolution must be provided to the Hearing Examiner for certification.
2. The District Council's resolution on the Change or Mistake Map Amendment application must be maintained in the permanent files of the Hearing Examiner.
3. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a Change or Mistake Map Amendment.

Sec. 8.2.3. Minor Corrective Map Amendment

A. Applicability & Description

1. Correction of an administrative or technical error in the application of a Sectional or District Map Amendment requires approval of a Minor Corrective Map Amendment.
2. A Minor Corrective Map Amendment may cover one or more tracts of land.
3. The purpose of a Minor Corrective Map Amendment is to enable the District Council, in lieu of a Sectional or District Map Amendment, to correct technical errors or inaccurate depictions of zoning boundary lines on an adopted map that are known as the result of mapping, surveying, or other technical information.
4. A Minor Corrective Map Amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

B. Application Requirements

An application for a Minor Corrective Map Amendment may be made only by the Planning Board.

C. Review and Recommendation

There are no time limitations on Minor Corrective Map Amendment decisions.

1. Planning Director Review

- a. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 7 days before the Planning Board hearing.
- b. The Planning Director's report and recommendation must include:
 - i. A description of each subject area of land proposed for correction;
 - ii. A map depicting the existing and proposed zoning for each subject area of land; and
 - iii. A statement describing the rationale in support of the zoning corrections.

2. Planning Board Review

- a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda or hold a public hearing.
- b. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

The applicant must show by a preponderance of the evidence that there are technical errors or inaccurate depictions of zoning boundary lines on an adopted map that are known as the result of mapping, surveying, or other technical information.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a Minor Corrective Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording Procedures

1. The District Council's resolution on the Minor Corrective Map Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

Amendments to a Minor Corrective Map Amendment are made by subsequent Map Amendments under this Chapter.

Sec. 8.2.4. Major Corrective Map Amendment

A. Applicability & Description

1. Correction of an error in the findings of fact in the application of a Sectional or District Map Amendment requires approval of a Major Corrective Map Amendment.
2. A Major Corrective Map Amendment may cover one or more tracts of land.
3. The purpose of a Major Corrective Map Amendment is to enable the District Council, in lieu of a Sectional or District Map Amendment, to correct errors or inaccurate depictions of zoning boundary lines or zoning designations on an adopted map that are known as the result an error or omission in the findings of fact during the District Council's proceedings for a Sectional or District Map Amendment.
4. A Major Corrective Map Amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

B. Application Requirements

An application for a Major Corrective Map Amendment may be made only by the Planning Board.

C. Review and Recommendation

There are no time limitations on Major Corrective Map Amendment decisions.

1. Planning Director Review

- a. Review the Development Review Committee may be completed at the discretion of the Planning Director.
- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.
- c. The Planning Director's report and recommendation must include:
 - i. A description of each subject area of land proposed for correction;
 - ii. A map depicting the existing and proposed zoning for each subject area of land; and
 - iii. A statement describing the rationale in support of the zoning corrections.

2. Planning Board Review

- a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda or hold a public hearing.
- b. The Planning Board must file a recommendation on the application to the District Council.

3. Hearing Examiner Review

- a. Except for the associated time limits, the Hearing Examiner review process of a Major Corrective Map Amendment is the same as for a Floating Zone Map Amendment.

D. Approval Criteria

The applicant must show by a preponderance of the evidence that there are errors or inaccurate depictions of zoning boundary lines or zoning designations on an adopted map that are known as the result of an error or omission in the findings of fact during the District Council's proceedings for a Sectional or District Map Amendment.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner's recommendation in whole or in part; with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Hearing Examiner for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a Major Corrective Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording Procedures

1. The District Council's resolution on the Major Corrective Map Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

Amendments to a Major Corrective Map Amendment are made by subsequent Map Amendments under this Chapter.

Sec. 8.2.5. Sectional Map Amendment

A. Applicability & Description

A comprehensive rezoning of an area of the county implementing a Master or Sector Plan requires approval of a Sectional Map Amendment.

B. Application Requirements

1. An application for a Sectional Map Amendment may be made only by the Planning Board or District Council.
2. The following public notice is required under Div. 8.6:
 - a. newspaper advertisement of the District Council public hearing in at least 2 local papers.

C. Review and Recommendation

There are no time limitations on Sectional Map Amendment decisions.

1. Planning Director Review

- a. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.
- b. The Planning Director's report and recommendation must include:
 - i. A description of the subject area of land proposed for comprehensive rezoning; and
 - ii. Maps depicting the proposed zoning for each subject area of land.

2. Planning Board Review

- a. A public hearing on the Planning Director's report and recommendation must be held by the Planning Board.
- b. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

The Applicant must show that the Sectional Map Amendment implements a Master or Sector Plan.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a Sectional Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording Procedures

1. The District Council's resolution on the Sectional Map Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map. A copy of the District Council's resolution must also be sent to the applicant; all persons entering their appearance at the hearing as shown by the hearing transcript; the Commission; the Supervisor of Assessments for Montgomery County; the Department of Finance; the Department of Environmental Protection; and the Board of Appeals.

I. Amendments

Amendments to a Sectional Map Amendment are made by subsequent Map Amendments under this Chapter.

Sec. 8.2.6. District Map Amendment**A. Applicability & Description**

A comprehensive rezoning of an area, areas, or the entire County implementing a Comprehensive Plan or Functional Master Plan requires approval of a District Map Amendment.

B. Application Requirements

1. An application for a District Map Amendment may be made only by the Planning Board or District Council.
2. The following public notice is required under Div. 8.6:
 - a. newspaper advertisement of the District Council public hearing in at least 2 local newspapers.

C. Review and Recommendation

There are no time limitations on District Map Amendment decisions.

1. Planning Director Review

- a. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.
- b. The Planning Director's report and recommendation must include:
 - i. Analysis of the policy issue that is the subject of the Comprehensive Plan or Functional Master Plan;
 - ii. A description of each subject area of land proposed for comprehensive rezoning; and
 - iii. Maps depicting the proposed zoning for each subject area of land.

2. Planning Board Review

- a. A public hearing on the Planning Director's report and recommendation must be held by the Planning Board.

- b. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

The Applicant must show that the District Map Amendment implements a Comprehensive Plan or Functional Master Plan.

E. Decision

1. A public hearing must be held by the District Council.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a District Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording Procedures

1. The District Council's resolution on the District Map Amendment must be maintained in the permanent files of the Planning Director.

2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

Amendments to a District Map Amendment are made by subsequent Map Amendments under this Chapter.

Sec. 8.2.7. Zoning Text Amendment

A. Applicability and Description

A change in the text of this Code requires approval of a Zoning Text Amendment.

B. Application Requirements

1. A request to introduce a Zoning Text Amendment may be made by any entity or person.
2. Only the District Council or any individual member(s) may introduce a Zoning Text Amendment.
3. Introduced Zoning Text Amendment
 - a. The District Council public hearing date is held within 60 days of introduction, unless the time is extended or postponed indefinitely.
 - b. Proposed Zoning Text Amendments must be transmitted to the Planning Director, DPS Director, Board of Appeals, and Hearing Examiner within 5 days of introduction by the District Council.
4. The following public notice is required under Div. 8.6:
 - a. Newspaper advertisement of the District Council public hearing in at least one local newspaper a minimum of 30 days and a maximum of 45 days before the hearing.

C. Review and Recommendation

1. Planning Director Review

- a. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.

2. Planning Board Review

- a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda or hold a public hearing.
- b. The Planning Board must file a recommendation on the application to the District Council at least 5 days prior to the District Council Hearing. The recommendation must also be made available to the public in general.

3. Other Agency Review

- a. The DPS Director, Board of Appeals, and Hearing Examiner must file a recommendation on the Zoning Text Amendment to the District Council at least 5 days before the District Council Hearing. The recommendation must also be made available to the public in general.

D. Approval Criteria

There are no specific approval criteria for a zoning text amendment.

E. Decision

1. A public hearing must be held by the District Council. **[Editor's note: Conduct of meetings/hearings recommended to be in Rules of Procedure]**
2. An affirmative vote of a majority of the District Council is required to adopt the introduced Zoning Text Amendment; with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.

F. Subsequent Applications

All subsequent actions required by the applicant or an agency are measured from the date of the District Council's resolution or the final court action, as applicable.

G. Scope of Approval

Approval of a Zoning Text Amendment entitles any affected property owner to develop under the Code per the requirements of this Chapter.

H. Recording Procedures

1. The District Council's resolution on the Zoning Text Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director, Planning Board, DPS Director, Board of Appeals, Hearing Examiner, the Supervisor of Assessments, the Department of Finance, and all persons entering their appearance at the hearing as shown by the hearing transcript.

I. Amendments

Amendments to a Zoning Text Amendment are made by subsequent Zoning Text Amendments.

Div. 8.3. Regulatory Approvals

Sec. 8.3.1. Conditional Use Plan

A. Applicability & Description

1. Use of any property for a conditional use, as designated by Article 59-3, requires approval of a Conditional Use Plan.
2. In this context, the Conditional Use Plan will be used to determine if the proposed development is in compliance with this Chapter.
3. Conditional Use Plan applications may encompass all or any part of a lot or tract but when not inclusive of any previous approval that encompasses the entire lot or tract, the application must demonstrate its relation to and coordination with other approvals.
4. Conditional Use Plan applications must conform to the conditions and/or binding elements and be consistent with any and all previous approvals that encumber the subject property unless amended.
5. A site plan is not required for the lot or tract, or any portion thereof, encompassed by a Conditional Use Plan except as imposed as a condition of approval by the Hearing Examiner or the Board of Appeals.

B. Application Requirements

1. The Board of Appeals or Hearing Examiner provides the intake procedures for Conditional Use Plan applications as determined by which body is authorized to make the final decision.
2. The date of the public hearing on a Conditional Use Plan is held within 120 calendar days of the date an application is accepted.
3. An application for a Conditional Use Plan may be made only by an entity or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. If any land or right-of-way encompassed by a conditional plan application is owned or controlled by the State, County, or any other private or public entity, a written agreement or authorization from that entity or agency must be submitted with the Conditional Use Plan application.

5. Disclosure of ownership must conform to Article 28 of the Annotated Code of Maryland.
6. A pre-application meeting with Planning Department Staff is recommended.
7. The following public notice is required under Div. 8.6:
 - a. posting of site with signage;
 - b. mailed notice of the filed application; and
 - c. mailed notice of the Hearing Examiner public hearing.
8. The applicant must submit the following:
 - a. application form and fees as approved by the District Council.
 - b. documentation of interest in the proposed development site under Sec. 8.3.1. B.3. and Sec.8.3.1.B.4.
 - c. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application.
 - d. additional Submittal Requirements
 - i. certified copy of official zoning vicinity map showing the area within at least 1000 feet surrounding the subject property;
 - ii. list of adjacent and confronting property owners in the county tax records and any citizen's association(s) within 1/4 mile;
 - iii. Natural Resources Inventory/Forest Stand Delineation application;
 - iv. Stormwater Management Concept or Water Quality Plan application, if required under Chapter 19 ;
 - v. accepted Traffic Statement or Study, as determined by Planning Director;
 - vi. inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;

- vii. existing and proposed dry and wet utility plan if changes to these facilities are proposed;
- viii. written description of operational features of the proposed use;
- ix. plans of proposed development showing:
 - (a) footprints, ground-floor layout, and heights of all buildings and structures;
 - (b) required open spaces and recreational amenities;
 - (c) layout of all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
 - (d) rough grading;
 - (e) landscaping and lighting; and
 - (f) supplementary documentation showing or describing the application's conformance to previous approvals and/or applicable requirements.
- x. development program and inspection schedule detailing the construction phasing for the project;
- xi. preliminary forest conservation plan application, if required under Chapter 22, or an approved preliminary forest conservation plan or exemption for telecommunication tower applications;
- xii. for telecommunication tower applications, photographic simulations of the tower and site seen from at least 3 directions, including from adjacent and confronting properties; and
- xiii. if a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points requested for each.

C. Review and Recommendation

1. Planning Director Review

- a. Review by the Development Review Committee may be completed at the discretion of the Planning Director.

- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.

2. Planning Board Review

- a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda or hold a public hearing.
- b. The Planning Board must file a recommendation on the application to the Hearing Examiner a minimum of 10 days before the Hearing Examiner's public hearing.

3. Hearing Examiner Review if the Board of Appeals is the Deciding Body

- a. A public hearing must be held by the Hearing Examiner in accordance with the Board of Appeal's rules of procedure, as approved by the District Council.
- b. The Hearing Examiner may postpone the public hearing and must provide mailed notice of the new hearing date.
- c. The Hearing Examiner may issue subpoenas to compel the attendance of witnesses and production of documents at any public hearing and administer an oath to any witness.
- d. Within 30 calendar days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the Board of Appeals. The report and recommendation must also be made available to the applicant and public in general.
- e. The Hearing Examiner may extend the time to forward the report and recommendation once by 30 days without the Board of Appeal's approval and again by 30 days with the Board of Appeal's approval.
- f. Within 10 days after transmittal of the Hearing Examiner's report any aggrieved party may file a written request for an opportunity to present oral argument before the Board of Appeals. The request must explicitly state the matters desired to be presented at the oral argument and, if oral argument is granted, the argument must be limited to matters contained in the record compiled by the hearing examiner. The Board of Appeals may, in its discretion, grant or deny an oral argument request.

Thereafter, the matter must be decided either as provided below or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

- i. Within 5 days after a request for oral argument is filed with the Hearing Examiner's office, any interested party may rebut, in writing, a request for oral argument or request to participate in oral argument if oral argument is allowed. Any rebuttal must be concise and limited to matters raised by the party who requested oral argument. Any rebuttal to a request for oral argument must be sent to the Hearing Examiner and each party who participated at the hearing, as listed by the Hearing Examiner.

D. Approval Criteria

1. To approve a Conditional Use Plan, the Hearing Examiner or Board of Appeals must find that the proposed development:
 - a. conforms to and is consistent with any previous approval(s) that encumbers the subject site or, if not, that the previous approval(s) be amended;
 - b. conforms to all applicable use standards, development standards, and general requirements required by this Code;
 - c. is consistent with the recommendations of the applicable master or sector plan and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan; and
 - d. will not have significant adverse effects in the following categories beyond those that are inherent in the use:
 - i. adverse effects on the use, peaceful enjoyment, economic value or development potential of adjacent and confronting properties;
 - ii. adverse impacts due to a lack of parking, traffic, noise, odors, dust or illumination; or
 - iii. adverse effects on the health, safety, or welfare of neighboring residents, visitors, or employees.
 - e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the

area adversely or alter the predominantly residential nature of the area. Conditional Use Plans that are consistent with the recommendations of a Master Plan do not alter the nature of an area.

- f. A Conditional Use Plan may be denied if it has non-inherent adverse effects in any of the above categories and the overall assessment of both inherent and non-inherent adverse impacts warrants denial to avoid undue harm to the general neighborhood.
2. If adequate public facilities are being tested:
 - a. and a Preliminary Subdivision Plan is not filed concurrently or required subsequently, the Hearing Examiner or Board of Appeals must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; or
 - b. and a Preliminary Subdivision Plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage.

E. Decision

1. If the Hearing Examiner is deciding the application, he or she must issue a decision on the application within 30 days of the close of the record to:
 - a. approve;
 - b. approve with conditions; or
 - c. disapprove the application.
2. If the Board of Appeals is deciding the application:
 - a. An affirmative vote of a majority of the Board of Appeals is required to adopt the Hearing Examiner's recommendation with or without modifications. If the required number of affirmative votes are not obtained, the application is disapproved.

- b. The Board of Appeals must issue a resolution reflecting the Board of Appeals' decision within 30 days of the close of the record unless such time is extended by the Board of Appeals.
- 3. The Hearing Examiner or Board of Appeals may supplement the specific requirements of this Article (Article 59-8) with any other requirements necessary to protect nearby properties and the general neighborhood.
- 4. Any party aggrieved by a decision of the Hearing Examiner or Board of Appeals may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

- 1. If the Conditional Use Plan is denied, a new application proposing substantially the same development for the same property may not be filed within 18 months after a final decision, unless the Hearing Examiner or Board of Appeals finds that the applicant has shown substantial new facts that would warrant re-application.
- 2. All subsequent actions required by the applicant or an agency are measured from the date the Hearing Examiner's or Board of Appeal's resolution was issued or a final court action, as applicable.
- 3. Conforming Permits
On any property where a conditional use is requested, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement:
 - a. until the Hearing Examiner or Board of Appeals approves a Conditional Use Plan; and
 - b. unless any building, structure, or improvement conforms to the approved Conditional Use Plan.
- 4. Permits Exempt from Conformance to Approved Conditional Use Plans
 - a. On any property where a Conditional Use Plan was approved, DPS may, without finding of conformance to the approved Conditional Use Plan, issue a sediment control permit or building permit to:

- i. construct an accessibility improvement;
 - ii. repair an existing structure; or
 - iii. replace an existing structure to no more than the same footprint and height approved.
- b. On a property where a Conditional Use Plan was approved, any owner or owners' association may, without finding of conformance to the approved Conditional Use Plan, change landscaping that was not required as a condition of approval for screening or buffering and/or install a site element or construct a paved surface or structure that meets the required setbacks, coverage limitations, other applicable standards and requirements, and does not conflict with any conditions of approval.
- c. On a residential lot created under the approval of a Conditional Use Plan and sold to a private homeowner, that owner may, without finding of conformance to the approved Conditional Use Plan, obtain a permit for improvements to landscaping and site elements that were not required as a condition of approval for screening or buffering and/or install a site element or construct a paved surface or structure that meets the required setbacks, coverage limitations, other applicable standards and requirements, and does not conflict with any conditions of approval.
- d. DPS must submit a copy of any permit issued under this Section (Sec. 8.3.1) to the Hearing Examiner or Board of Appeals for inclusion in the record of the Conditional Use Plan.
- e. Any modification to an improvement shown on an approved Conditional Use Plan that is allowed under this Section (Sec. 8.3.1) does not require an amendment to the Conditional Use Plan.

G. Scope of Approval

- 1. A Conditional Use Plan expires within 24 months from the date of the issuance of the decision or resolution, unless a longer period is established by the decision or resolution, if the use is not established or a building permit has not been obtained for the applicable use.
- 2. Development activities under this Section (Sec. 8.3.1) must conform to the

approved Conditional Use Plan and any conditions or operational restrictions.

H. Recording Procedures

The approved Conditional Use Plan and Hearing Examiner decision or Board of Appeals resolution must be maintained in the permanent files of the Hearing Examiner or the Board of Appeals, as applicable.

I. Amendments

1. Major amendments to an approved Conditional Use Plan follow the same procedures, must meet the same criteria, and are subject to the same requirements as the original Conditional Use Plan. Major amendments include, without limitation, any requests to increase density or height, to make changes to any conditions of approval, or to increase the intensity of the use.
2. Minor amendments to an approved Conditional Use Plan may be approved administratively by the Hearing Examiner or Board of Appeals, as applicable. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; increase intensity of use; or alter the conditions of approval imposed by the Hearing Examiner or Board of Appeals.
 - a. The following public notice is required under Div. 8.6:
 - i. posting of site with signage; and
 - ii. mailed notice of the filed application.
 - b. Public Hearing
 - i. A public hearing is not required if no objection to the application is received within 15 days of the mailed notice of the filed application.
 - ii. If an objection to the application is received within 15 days of the mailed notice of the filed application a public hearing must be held under the same procedures as an original application.

J. Compliance and Enforcement

1. DPS and the Board of Appeals must establish a regular inspection program for conditional uses. DPS must perform the inspections according to the established schedule and must perform inspections if a complaint alleging

failure to comply with the terms or conditions of a Conditional Use Plan is filed with DPS or the Board of Appeals.

2. If the inspection reveals a violation of the terms and/or conditions of the Conditional Use Plan, DPS must direct the Conditional Use Plan holder to correct the violation within a given time frame. When the time to correct the violation expires, DPS must reinspect the premises. If the violation has not been corrected, DPS must file a report with the Board of Appeals.
3. If, under this Article (Article 59-8), the Board of Appeals receives a written notice from DPS that the terms or conditions of a Conditional Use Plan or that the terms, conditions, or restrictions attached to the grant of any permit issued under this Article (Article 59-8) are not being complied with, the Board of Appeals may order the Conditional Use Plan holder and the property owner to appear before the Board of Appeals at a date, time, and place specified to show cause why the conditional use should not be revoked.
4. The notice of a show cause hearing must be issued to the Conditional Use Plan holder, the property owner, DPS, and to all parties who have submitted written complaints concerning the conditional use and must:
 - a. include the nature of the alleged violations;
 - b. state that the hearing is limited to a consideration and a determination of the validity of the allegations; and
 - c. advise the Conditional Use Plan holder and the property owner that failure to attend and participate in the hearing may result in issuance of an order revoking the conditional use.
5. The Board of Appeals must conduct a show cause hearing limited to consideration of the issues noted in the order and notice of hearing. The Board of Appeals may reaffirm or revoke the conditional use or amend, add to, delete or modify the existing terms or conditions of the conditional use. The decision of the Board of Appeals must be by the adoption of a written resolution and copies of the resolution transmitted to the Conditional Use Plan holder, the property owner, DPS, the Planning Director and other relevant parties.
6. Revocation by the Board of Appeals of any conditional use must be so noted in the official zoning maps of DPS and the Planning Department.

Sec. 8.3.2. Variance

A. Applicability & Description

1. A modification from the standards or requirements of this Code, not subject to a waiver by the applicable deciding body, requires approval of a Variance.
2. If an applicant requests a modification that is subject to a waiver by the applicable deciding body and that waiver is denied, the applicant can apply for a Variance.

B. Application Requirements

1. The Board of Appeals provides the intake procedures for all Variance applications.
2. The date of the public hearing on a Variance application is held within 60 days of the date an application is accepted.
3. An application for a variance may be made only by an entity or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. The following public notice is required under Div. 8.6:
 - a. posting of site with signage;
 - b. mailed notice of the filed application; and
 - c. mailed notice of the Board of Appeals public hearing.
5. The applicant must submit the following:
 - a. application form and fees as required by the Board of Appeals.
 - b. documentation of interest in the proposed development site under **Sec. 8.3.2.B.3.**
 - c. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application.
 - d. additional submittal requirements:
 - i. survey plat or scaled drawing showing boundaries, frontage, and topography;

- ii. certified copy of official zoning vicinity map showing the area within at least 1000 feet surrounding the subject property;
- iii. list of adjacent and confronting property owners in the county tax records and any citizen's association(s) within 1/4 mile;
- iv. scale plans, illustrations, sections, elevations, and/or specifications showing all existing and proposed buildings and structures; and
- v. supplementary documentation to be introduced in support of the application.

C. Review and Recommendation

Review by the Planning Director, Planning Board, and/or Hearing Examiner may be completed, if requested by the Board of Appeals.

D. Approval Criteria

To approve a Variance, the Board of Appeals must find that:

1. By reason of unusual lot shape, topographical conditions, or other extraordinary situations or conditions peculiar to the specific site the strict application of the standards in this Chapter would impose unusual practical difficulties on the applicant;
2. The requested variance is the minimum necessary to overcome the practical difficulties imposed by the unusual or extraordinary situations or conditions;
3. The Variance can be granted without substantial impairment to the intent and integrity of the General Plan or the applicable Master or Sector Plan; and
4. Granting the Variance will not be detrimental to the use and enjoyment of adjoining properties.

E. Decision

1. A public hearing must be held by the Board of Appeals.
2. Within 30 days after the close of the record of the public hearing, the Board of Appeals must act by a majority of those present at the public hearing to approve, approve with conditions, or disapprove the application. If the required number of affirmative votes are not obtained, the application is disapproved.
3. Any party aggrieved by a decision of the Board of Appeals may file a petition

for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a Variance is denied, a new application proposing substantially the same development for the same property may not be filed within 18 months after a resolution is adopted unless the Board of Appeals finds that the applicant has shown substantial new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured from the date of the Board of Appeals' resolution or the final court action, as applicable.

G. Scope of Approval

1. A Variance is valid for 12 months, during which time a building permit must be obtained for the applicable building, structure, or use.
2. Approval of a Variance entitles the applicant or successor to obtain a building permit or file a Site Plan or Conditional Use Plan to the standard(s) granted by the Variance.
3. The conditions approved by the Board of Appeals are binding upon the applicant, successors, and assigns.

H. Recording Procedures

The Board of Appeals' resolution must be maintained in the land records and permanent files of the Board of Appeals.

I. Amendment

There are no amendments to a Variance.

Sec. 8.3.3. Sketch Plan

A. Applicability & Description

1. Development under optional method in the CRT, CR, EOF, or ELS zone requires approval of a Sketch Plan.
2. In this context, a Sketch Plan provides the opportunity for the Planning

Board to consider the appropriate balance of public benefits and development rights.

B. Application Requirements

1. The Planning Director provides the intake procedures for all Sketch Plan applications.
2. The date of the public hearing on a sketch plan is held within 90 calendar days of the date an application is accepted.
3. An application for a Sketch Plan may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. If any land or right-of-way encompassed by a Sketch Plan application is owned or controlled by the state, county, or any other private or public entity, a written agreement or authorization from that entity or agency must be submitted with the Sketch Plan application.
5. Disclosure of ownership must conform to **Article 28 of the Annotated Code of Maryland**.
6. A pre-application meeting with Planning Department Staff is recommended.
7. The following public notice is required under Div. 8.6:
 - a. pre-submittal public meeting;
 - b. posting of site with signage;
 - c. mailed notice of filed application; and
 - d. mailed notice of the Planning Board public hearing.
8. The applicant must submit the following:
 - a. application form and fees as required by the Planning Director;
 - b. vicinity map at 1" = 200';
 - c. site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;

- d. list of adjacent and confronting property owners in the county tax records and any citizen's association(s) within 1/2 mile;
- e. documentation of interest in the proposed development site under **Sec. 8.3.3.B.3.** and **Sec.8.3.3.B.4.**;
- f. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application; and
- g. illustrative plans showing:
 - i. building densities, massing, heights, and the anticipated mix of uses;
 - ii. locations of public use and other open spaces;
 - iii. pedestrian, bicycle, and vehicular circulation, parking, and loading; and
 - iv. relationships between existing or proposed adjacent buildings and rights-of-way;
 - v. a table of proposed public benefits and the incentive density points requested for each; and
 - vi. a general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

C. Review and Recommendation

1. Planning Director Review

- a. Review by the Development Review Committee must be completed within 45 days of the date an application is accepted.
- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and public in general at least 10 days before the Planning Board hearing.
- c. The Planning Director may postpone the public hearing by 30 days once without Planning Board approval and by 30 days once again if the extension is approved by the Planning Board. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

D. Approval Criteria

To approve a Sketch Plan, the Planning Board must find that the following elements are appropriate in concept and appropriate for further detailed review at Site Plan. The Sketch Plan must:

- 1. meet the objectives, general requirements, and standards of this Chapter;
- 2. further the recommendations and objectives of the applicable Master or Sector Plan;
- 3. achieve compatible internal and external relationships between existing and pending nearby development;
- 4. provide satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;
- 5. propose an outline of public benefits that supports the requested incentive density; and
- 6. establish a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future Preliminary and Site Plan applications.

E. Decision

- 1. A public hearing must be held by the Planning Board.
- 2. Within 30 days after the close of the record of the public hearing, the Planning Board must act by majority vote of those present at the public hearing to:
 - a. approve;
 - b. approve subject to modifications, conditions, or binding elements; or
 - c. disapprove the application.
- 3. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a Sketch Plan is denied, a new application proposing substantially the same development for the same property may not be filed within 18 months after a final decision, unless the Planning Board finds that the applicant has shown substantial new facts that would warrant re-application.
2. All subsequent actions required by the applicant or an agency are measured from the date of the Planning Board's resolution or the final court action, as applicable.
3. If a Sketch Plan is approved, a Site Plan(s) must be submitted under this Article (Article 59-8) within 36 months of date of the mailing of the resolution, unless a longer period is established by the resolution.

G. Scope of Approval

1. Approval of a Sketch Plan entitles the applicant or successor to file a Site Plan(s) under the optional method development standards and requirements and according to the conditions and binding elements approved with the Sketch Plan.
2. The conditions or binding elements approved by the Planning Board are binding upon the applicant, successors, and assigns.

H. Recording Procedures

The Planning Board resolution must be maintained in the permanent files of the Planning Department.

I. Amendments

During Site Plan review, the Planning Board may approve amendments to the binding elements or conditions of an approved Sketch Plan.

1. Amendments to the binding elements or conditions of an approved Sketch Plan may be approved if such amendments are:
 - a. requested by the applicant;
 - b. recommended by the Planning Board staff and agreed to by the applicant; or
 - c. made by the Planning Board, based on a staff recommendation or on its own initiative, if the Planning Board finds that a change in relevant facts

and circumstances since Sketch Plan approval demonstrates that the binding element or condition is not consistent with the applicable Master or Sector Plan or does not meet the requirements of this Code.

2. Notice of proposed amendments to the binding elements must be identified in the Site Plan application if requested by the applicant, or in the final notice of the Site Plan hearing if recommended by Planning Board staff and agreed to by the applicant.
3. For any amendments to the binding elements or conditions, the Planning Board must make the applicable Sketch Plan findings in addition to the findings necessary to approve a Site Plan under this Article (Article 59-8).

Sec. 8.3.4. Site Plan

A. Applicability & Description

1. Development under the optional method requires approval of a Site Plan, in some cases, after approval of a Sketch Plan; development under a Floating zone requires approval of a Site Plan after approval of a Floating Zone Map Amendment.
2. Development under the standard method requires Site Plan approval as indicated in the following table:

Determining when a Site Plan is required:

Subject Property's Zone	Proposed Use	Proposed Intensity (gross floor area in SF, units, or building height in feet)	Abutting or Confronting Property's Zone	Site Plan Required
Agricultural, Rural, or Residential Detached	Any	Any	Any	No
Residential Townhouse or Residential Multi-Unit	Any	< 20 units or ≤ 40'	Any	No
		≥ 20 units or > 40'	Any	Yes
Commercial/Residential or Employment	Permitted	≤ 10,000 SF, ≤ 10 units, or ≤ 40'	Any	No
		> 10,000 SF, > 10 units, or > 40'	Agricultural, Rural, Residential, or Floating	Yes
	Limited	Any	Commercial/Residential, Employment, or Industrial	No
Industrial	Any	≤ 40'	Agricultural, Rural, Residential, or Floating	Yes
			Commercial/Residential, Employment, or Industrial	No
	> 40'	Any	Yes	
Overlay	Any	Any	Any	If required by the applicable Overlay zone under Article 59-4 or if required by the underlying zone.

3. A Site Plan provides a detailed overview of the applicant's development. In this context, the Site Plan will be used to determine if the proposed development is in compliance with current laws, regulations, this Code, and applicable Master or Sector Plan and approved guidelines.
4. Site Plan applications may encompass all or any part of a lot or tract but when not inclusive of any previous approval that encompasses the entire lot or tract, the application must demonstrate its relation to and coordination with other approvals or submittals.
5. Site Plan applications must conform to the conditions and/or binding elements and be consistent with any and all previous approvals that encumber the subject property.
6. A site Plan is not required for any site or area within a site subject to a Conditional Use Plan, unless as conditioned by the Hearing Examiner or Board of Appeals.

B. Application Requirements

1. The Planning Director provides the intake procedures for all Site Plan applications.
2. The date of the Planning Board's public hearing on a Site Plan is held within 120 days of the date an application is accepted.
3. An application for a Site Plan may be made only by an entity or a person with a financial, contractual, or proprietary interest in the proposed development site.
4. If any land or right-of-way encompassed by a Site Plan application is owned or controlled by the state, county, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the Site Plan application.
5. Disclosure of ownership must conform to Article 28 of the Annotated Code of Maryland.
6. A pre-application meeting with Planning Department Staff is recommended.
7. The following public notice is required under Div. 8.6:
 - a. pre-submittal public meeting;
 - b. posting of site with signage;
 - c. mailed notice of filed application; and
 - d. mailed notice of the Planning Board public hearing.
8. The applicant must submit the following:
 - a. application form and fees as required by the Planning Director;
 - b. vicinity map at 1" = 200';
 - c. site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
 - d. list of adjacent and confronting property owners in the county tax records and any citizen's association(s) within 1/2 mile;
 - e. documentation of interest in the proposed development site under **Sec.8.3.4.B.3.** and **Sec.8.3.4.B.4;**
 - f. statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application;
 - g. verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public, as required by Planning Board regulations;
 - h. additional submittal requirements:
 - i. approved Natural Resources Inventory/Forest Stand Delineation plan;
 - ii. Stormwater Management Concept Application or, if required, a Water Quality Plan Application;
 - iii. accepted Traffic Statement or Study, as required by the Planning Director;
 - iv. existing and proposed dry and wet utility plan;
 - v. plans of proposed development showing:
 - (a) footprints, ground-floor layout, and heights of all building and structures;
 - (b) required open spaces and recreational amenities;

- (c) detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
- (d) grading;
- (e) landscaping and lighting; and
- (f) supplementary documentation showing or describing the application's conformance to previous approvals and/or applicable requirements.
 - i. a development program and inspection schedule detailing the construction phasing for the project;
 - j. a final forest conservation plan application; and
 - k. if a Sketch Plan was approved for the property, a table of proposed public benefits and the incentive density points requested for each.

C. Review and Recommendation

1. Planning Director Review

- a. Review by the Development Review Committee must be completed within 45 days of the date an application is accepted.
- b. A report and recommendation must be issued by the Planning Director and made available to the applicant and general in public a minimum of 10 days before the Planning Board hearing.
- c. The Planning Director may postpone the public hearing by 30 days once without Planning Board approval and by 30 days once again if the extension is approved by the Planning Board. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

D. Approval Criteria

To approve a Site Plan, the Planning Board must find that the proposed development:

- 1. conforms to and is consistent with any previous approval(s) that encumbers the subject site or, if not, that the previous approval(s) be amended;

- 2. conforms to all applicable use standards, development standards, and general requirements required by this Code;
- 3. is substantially consistent with the recommendations of the applicable master or sector plan and any guidelines approved by the Planning Board that implement the applicable plan;
- 4. is compatible with existing and approved adjacent development;
- 5. provides safe, well-integrated circulation patterns and building massing and, where required, open spaces and site amenities; and
- 6. meets the requirements of other applicable sections of the Montgomery County Code under jurisdiction of the Planning Board, including:
 - a. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
 - b. Chapter 22A, Forest Conservation.

E. Decision

- 1. A public hearing must be held by the Planning Board.
- 2. Within 30 days after the close of the record of the public hearing, the Planning Board must act by majority vote of those present at the public hearing to:
 - a. approve;
 - b. approve subject to modifications or conditions; or
 - c. disapprove the application.
- 3. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

- 1. If the Site Plan is denied, a new application proposing substantially the same development for the same property may not be filed within 18 months after a final decision, unless the Planning Board finds that the applicant has shown substantial new facts that would warrant re-application.

2. All subsequent actions required by the applicant or an agency are measured from the date of the Planning Board’s resolution or the final court action, as applicable.
3. Conforming Permits
On any property where a site plan approval is requested, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement:
 - a. until the Planning Board approves a Site Plan; and
 - b. unless any building, structure, or improvement conforms to the approved Site Plan as certified by the Planning Department.
4. Permits Exempt from Conformance to Approved Site Plans
 - a. On any property where a Site Plan was approved DPS may, without finding of conformance to the approved Site Plan, issue a sediment control permit or building permit to:
 - i. construct an accessibility improvement;
 - ii. repair an existing structure; or
 - iii. replace an existing structure to no more than the same footprint and height approved.
 - b. On a property where a Site Plan was approved, any owner or owners’ association may, without finding of conformance to the approved Site Plan, change landscaping that was not required as a condition of approval for screening or buffering and/or install a site element or construct a paved surface or structure that meets the required setbacks, coverage limitations, other applicable standards and requirements, and does not conflict with any conditions of approval.
 - c. On a residential lot created under the approval of a Site Plan and sold to a private homeowner, that owner may, without finding of conformance to the approved Site Plan, obtain a permit for improvements to landscaping and site elements that were not required as a condition of approval for screening or buffering and/or install a site element or construct a paved surface or structure that meets the required setbacks, coverage

limitations, other applicable standards and requirements and does not conflict with any conditions of approval.

- d. DPS must submit a copy of any building or site permit approved under this section to the Planning Director for inclusion in the record of the Site Plan.
- e. Any modification to an improvement shown on an approved Site Plan that is identified in this Section (Sec. 8.3.4) does not require an amendment to the Site Plan.

G. Scope of Approval

1. A Site Plan expires unless a certified Site Plan is approved within 24 months of Planning Board approval, measured from the date of the resolution.
2. A Site Plan does not become effective until the final record plat is recorded for any approved subdivision plan underlying the subject property.
3. A certified Site Plan does not expire unless the underlying subdivision plan’s adequate public facilities review, as determined by Section 50-35(d) of the Montgomery County Code, expires or changes to the applicable zoning map, text, or other applicable laws or regulations require the certified Site Plan to be modified.
4. Development activities under this Section (Sec. 8.3.4) must conform to the approved Site Plan and any conditions or restrictions.

H. Recording Procedures

The certified Site Plan and Planning Board resolution must be maintained in the permanent files of the Planning Department.

I. Amendments

1. Major amendments to an approved Site Plan follow the same procedures, must meet the same criteria, and are subject to the same requirements as the original Site Plan.
 - a. Major amendments include any requests to increase density or height or to make changes to any conditions of approval.
 - b. Uncontested major amendments may be approved on the Planning Board’s consent agenda.

2. Minor amendments to an approved Site Plan may be approved administratively by the Planning Director. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; or alter the intent, objectives, or requirements expressed or imposed by the Planning Board.
 - a. The following public notice is required under Div. 8.6:
 - i. posting of site with signage; and
 - ii. mailed notice of the filed application.
 - b. Public Hearing
 - i. A public hearing is not required if no objection to the application is received within 15 days of the mailed notice of the filed application.
 - ii. If an objection to the application is received within 15 days of the mailed notice of the filed application a public hearing must be held under the same procedures as an original application.

J. Compliance and Enforcement

1. If the Planning Board finds, after holding a public hearing or designating a hearing officer to hold a public hearing, that a property under development is not in compliance with a certified Site Plan, it may:
 - a. impose a civil fine or administrative civil penalty authorized by Section 50-41;
 - b. suspend or revoke the Site Plan;
 - c. approve a compliance program which would permit the applicant to take corrective action to comply with the certified Site Plan;
 - d. allow the applicant to propose modifications to the certified Site Plan; or
 - e. take any combination of these actions.
2. If the Planning Board suspends or revokes a Site Plan, DPS must immediately suspend any applicable building permit under which construction has not been completed, or withhold any applicable use-and-occupancy permit, until the Planning Board reinstates the Site Plan or approves a new Site Plan for the development.

Div. 8.4. Administrative Approvals

Sec. 8.4.1. Building Permit

A. Applicability

1. A building permit is required before any building or structure can be erected, moved, structurally altered, added to, or enlarged and before any excavation can be started.
2. Exemptions from building permit requirement:
 - a. Any building or structure used exclusively for agricultural purposes on land used exclusively for agriculture, except for:
 - i. a building or structure used for a purpose that is not exclusively agricultural, including conditional uses, even though located on otherwise agricultural land; or
 - ii. an equestrian facility, building, or structure intended for use by participants or spectators at an equestrian event.
 - b. The following public utility equipment:
 - i. any structure and its attached cross arms carrying overhead electric power and energy transmission and distribution lines that carry 69,000 volts or less;
 - ii. equipment installed and maintained by a public utility subject to regulation by the State Public Service Commission; or
 - iii. poles or structures used for street lights, fire alarm boxes, traffic signals, or similar municipal equipment installed by the state or a local municipality.

B. Application Requirements

Each application for a building permit must be accompanied by 2 copies of a plan drawn to scale showing:

1. the lot upon which the building is proposed to be erected; lot dimensions, lot and block numbers, and subdivision name, if any;
2. the name and width of abutting streets;

3. the location, dimensions, and use of existing buildings and other structures on the lot;
4. the location, dimensions, and proposed use of buildings and other structures for which a permit is requested;
5. front and rear yard widths; and
6. north point, date, and scale of plan.

C. Approval Process

DPS provides the intake procedures for building permits.

D. Approval Criteria

1. DPS must determine that proposed work conforms to the uses and amount of development authorized under this Code or other applicable law and for which the adequacy of public facilities is determined after:
 - a. review of a preliminary plan of subdivision or Site Plan if required under this Code or chapter 50; or
 - b. building permit review if required under **Chapter 8**.
2. For a Conditional Use Plan, Variance, or Site Plan:
 - a. Proposed work must comply with all terms and conditions set by the deciding body in the resolution or decision granting the approval, including any exhibits referred to in the decision.
 - b. DPS, in its exercise of reasonable discretion, may allow minor adjustments during construction that do not substantially alter the size, location or external appearance of any approved building(s), structure(s) or use(s). DPS must immediately notify the deciding body of any deviations from the approval of the deciding body.
 - c. Any change proposed during construction that would substantially alter the location or external appearance of any approved building(s), structure(s), or use(s) requires an amendment under this Division (Div. 8.4).

- d. The County may suspend or revoke any building permit for construction if the construction does not comply with all terms and conditions set by the deciding body.
- 3. A building permit must not be issued during the time permitted by law or rule of court to file an appeal from:
 - a. Any decision or resolution by a deciding body under this Division (Div. 8.4).
 - b. A decision of judgment of a court in a proceeding which seeks to affirm, reverse, modify, or nullify a decision of a deciding body or to remand the same to the deciding body. DPS is prohibited from issuing a building permit during the pendency of such court proceedings or a proceeding before the Board of Appeals; provided, that nothing herein shall be construed to prohibit the issuance of a building permit for any use which would have been permitted under this Code for the subject property immediately prior to a decision under **Sec. 8.4.1.D.3.1** hereof unless such use will not be permitted under the requested change in classification or grant which was the subject of such decision.
 - i. A building permit may be issued, however, while an appeal from the grant of a Sectional Map Amendment by the District Council may be filed or is pending if the permit is for development and use in accordance with the zoning classification imposed on the property by the Sectional Map Amendment. Such a building permit shall contain a condition that the development shall comply with all the requirements of the zoning classification imposed by the Sectional Map Amendment and any Sketch Plans and Site Plans that may have been approved by the Planning Board under the optional method of development. The development pursuant to such building permit (i.e., the construction of footings on the site) shall be deemed to have a vested interest to continue and be used under the zoning classification imposed by the Sectional Map Amendment.
 - ii. In order to facilitate the orderly coordination of the issuance of building permits with the county zoning procedures, in this Code, applications for building permits shall be rejected if all or any part of

such application lies within the boundaries of an application for an amendment to the zoning map, filed under the applicable provisions of this Code. However, no such application shall be rejected under the provisions of this subsection if such application would otherwise satisfy the requirements of both the existing zoning classification and the proposed zoning classifications of the application for an amendment to the zoning map. Any application rejected under the provisions of the subsection may be resubmitted without an additional fee and shall be acted upon following the final disposition by the District Council of the amendment to the zoning map; provided, that whenever action by the District Council on any such zoning map amendment is still pending, on the whole or any part of the land covered by a building permit application, after the passage of 6 months from the date of the original submission of the building permit application, an application for a building permit rejected under this subsection may be refiled without an additional fee and must not be rejected again under the provisions of this subsection.

- 4. Until the application has been submitted to the Planning Director for review for conformity with this Code, a building permit must not be issued for:
 - a. construction of a new principal structure;
 - b. construction that increases the gross floor area of an existing commercial structure; or
 - c. construction that increases the gross floor area of any residential structure by more than 500 feet.

E. Appeal

Any party aggrieved by the decision of DPS may file an appeal for review of the decision within the time and manner prescribed with in the Maryland Rules of Procedure relating to administrative appeals to the Board of Appeals under **Sec 8.8.1** and thereafter to the Circuit Court and Court of Special Appeals.

Sec. 8.4.2. Use & Occupancy and Temporary Use Permits

A. Applicability

1. A use-and-occupancy permit is required before any building, structure, or land can be used or can be converted, wholly or in part, from one use to another.
2. Exemptions from use-and-occupancy permit requirement:
 - a. land or buildings used exclusively for agricultural purposes;
 - b. a use for which a valid occupancy permit was issued and not revoked before June 1, 1958;
 - c. a family day care facility (up to 8 persons); and
 - d. a transitory use.

B. Application Requirements

Each application for a use-and-occupancy permit must be accompanied by 2 copies of a plan drawn to scale showing:

1. the lot on which a use is proposed; lot dimensions, lot and block numbers and subdivision name, if any;
2. the location, extent, and layout for the proposed use and any other pertinent information; and
3. north point, date and scale of plan.

C. Approval Procedures

DPS provides the intake and procedures for use-and-occupancy and temporary use permits.

D. Approval Criteria

1. DPS must certify compliance with this Code.
2. Any building, structure, or land to be used must comply with the requirements, representations, plans, and conditions contained in the decision or resolution of the deciding body.
3. On the basis of a thorough final inspection, DPS must verify that construction or alteration has been completed, according to the decision or resolution.

4. A temporary use-and-occupancy permit may be issued subject to any restrictions in Article 59-3.

E. Appeals

Any party aggrieved by the decision DPS may file an appeal for review of the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to the Board of Appeals under Sec. 8.8.1. and thereafter to the Circuit Court and Court of Special Appeals

Sec. 8.4.3. Home Occupation and Home Health Practitioner Registration

A. Applicability

All low impact and major impact home occupations and low impact and major impact home health practitioners must register with DPS.

B. Application Requirements

An application for registration must include the following:

1. a signed affidavit of compliance that affirms that the applicant:
 - a. complies with the applicable standards in Sec. 3.3.3.E or Sec. 3.3.3.F;
 - b. will take whatever action is required by DPS to bring the home occupation or home health practitioner's office into compliance if complaints of noncompliance are received and verified.
2. the manner in which the operation of the home occupation or home health practitioner satisfies the use standards in Sec. 3.3.3.E or Sec. 3.3.3.F;
3. the location of the lot or parcel by street address and either lot and block number or liber and folio;
4. the zone in which the lot or parcel is located;
5. area of the lot or parcel, in square feet or acres;
6. the total floor area of the dwelling unit and the amount of floor area to be used for the home occupation or home health practitioner as well as the floor area of any existing accessory building to be used for the home occupation or home health practitioner;
7. the location and number of off-street parking spaces;

8. proof of home address; and
9. other pertinent information required by DPS.
10. For a home health practitioner's office:
 - a. a copy of the use- and-occupancy permit required under [Section 8.4.2](#); and
 - b. the location of any indoor waiting room for patients, if more than one patient will be on the premises at the same type.

C. Approval Procedures

DPS provides the intake procedures for the home occupation and home health practitioner registration.

D. Approval Criteria

DPS issues a Certificate of Registration if the applicant:

- a. satisfies [Section 3.3.3.E](#) or [Section 3.3.3.F](#); and
- b. has an approved on-site inspection, as required by DPS.

E. Recording Procedures

DPS must maintain the Home Occupation and Health Practitioner Registry that is readily available for public inspection.

F. Compliance and Enforcement

1. If DPS receives a complaint about a home occupation or home health practitioner's office, an inspector must inspect the property and determine, within 90 days after receipt of the complaint, whether there is a violation of the provisions of this Section (Sec. 8.4.3) or [Section 3.3.3.E](#) or [Section 3.3.3.F](#).
2. If DPS determines that there is a violation, DPS may issue a warning notice, and the violation must be corrected within 30 days after the warning notice is issued. In the case of any violation that could be remedied with a Conditional Use Plan, a petition must be filed within 60 business days for a Conditional Use Plan for a major home occupation or home health practitioner under [Section 3.3.3.E](#) or [Section 3.3.3.F](#). Operation of the low impact home occupation or home health practitioner's office may continue until the Board of Appeals has acted on the petition if the violation is corrected before the application for conditional use is filed. If the Board of Appeals denies the

Conditional Use Plan, the home occupation or home health practitioner's office must cease immediately or operate under the requirements for a low impact home occupation or home health practitioner's office.

3. DPS may issue a citation under [Div 8.6](#):
 - a. immediately, instead of a warning notice under [Sec 8.4.3.F.1](#); or
 - b. 30 days or more after the warning notice was issued under [Sec 8.4.3.F.1](#).

Sec. 8.4.4. Sign Permit

A. Applicability

1. A sign permit is required when a sign is constructed, erected, moved, enlarged, illuminated, or substantially altered. Routine maintenance, including painting, cleaning, changing copy where permitted, or changing copy in compliance with a sign concept plan, does not require a permit.
2. Signs listed in [Sec. 7.6.3](#) are exempt from sign permit requirement.

B. Application Requirements

1. The property owner and the sign installer must file a joint application for the sign permit on forms provided by DPS. If the property owner has an agent or lessee, the agent and the lessee must also sign each permit form. The application must be accompanied by all required fees and the following:
 - a. a scale drawing of the sign showing all dimensions and visual characteristics, including structural and architectural supports;
 - b. a scale drawing of the site showing:
 - i. the proposed location of the sign, including setbacks;
 - ii. the location and size of all other signs on the property;
 - iii. the location, dimensions, and distance from property lines of all buildings on the site;
 - iv. the location, and name of all streets which abut the property;
 - v. the frontage dimensions of the site along each street which abuts the property;
 - vi. the existing elevation and grade of the site and the proposed contour lines;

- c. a valid electrical permit or a completed application for an electrical permit under **Chapter 17**, if the application is for an illuminated sign;
- d. a completed building permit application pursuant to **Chapter 8** for a sign requiring structural support;
- e. payment of the sign permit fee as adopted by District Council Resolution;
- f. other information that may be required by DPS to insure compliance with **Div 7.6** or other Sections of the Code; and
- g. a sign concept plan if:
 - i. the lot or parcel is in a Commercial/Residential, Employment, or Industrial zone and is requesting more than 800 square feet of total sign area;
 - ii. the development consists of more than one lot or parcel in a Commercial/Residential, Employment, or Industrial zone zone developed under a management control plan where one or more individual lots or parcels is requesting more than 800 square feet of total sign area. When used for such development, a sign concept plan may include one or more individual sites or parcels whose total sign area does not exceed 800 square feet; or
 - iii. the development uses optional method within an urban renewal area.
- 2. DPS must waive all required fees if:
 - a. the primary applicant is a non-profit organization that is on the Planning Board's list of civic and homeowners associations; and
 - b. the size of the proposed sign is smaller than a maximum size set by a regulation adopted by the Director of DPS under **method (2)**.
- 3. DPS may waive or reduce all required fees if:
 - a. the primary applicant is a non-profit organization that by law is exempt from federal income taxes and demonstrates that its annual revenue during its most recent fiscal year was less than an amount set by a regulation adopted by the Director of DPS under **method (2)**; and

- b. the size of the proposed sign is smaller than a maximum size set by a regulation adopted by the Director of DPS under **method (2)**.

C. Approval Process

DPS provides the intake procedures for sign permit applications.

D. Approval Criteria

1. A sign permit must be issued by DPS as follows:
 - a. upon review of the application, DPS determines that the proposed sign or sign concept plan meets the requirements of **Div 7.6**; or
 - b. upon submission of the application packet and a written certification by a licensed sign installer that the proposed sign meets the requirements of **Div 7.6**.
2. DPS has the authority to resolve any dispute or to interpret any ambiguity in this Section (**Sec. 8.4.4**).

E. Validity

A sign permit becomes invalid when:

1. the sign for which the permit was issued is not erected within 6 months from the date of issuance;
2. the sign for which the permit was issued is moved or substantially altered;
3. DPS revokes the permit for failure to comply with an order issued by DPS stipulating corrective action for improper maintenance;
4. the application for a sign permit contained inaccurate information; or
5. the terms of the permit have not been satisfied.

F. Appeal

Any party may appeal to the Board of Appeals under **Sec 8.8.1** for the following:

1. any final action of DPS related to permits and licenses within 30 days of the action;
2. any final action of DPS with respect to Sign Review Board recommendations within 30 days of the action; and
3. any final decision of the Sign Review Board.

G. Compliance and Enforcement

1. The sign permit must be displayed in a location on or near the sign that permits a person to read the permit while standing on the ground, including on the sign itself, on its supporting structure, or other reasonable and visible location.
2. Compliance is the responsibility of the joint applicants for a sign permit, including the property owner or agent of the property where the sign is erected, along with the lessee, if any, and the sign installer. DPS may initiate enforcement proceedings against one or all of these individuals, jointly or severally.
3. Upon identification and presentation of proper credentials, DPS may enter a site during normal business hours to inspect a sign displayed on a building, structure, lot or parcel in the county to determine compliance with this Code.
4. DPS may order the removal of any sign that violates this Code, or interferes with traffic or public safety. The removal must be performed at the expense of the responsible party.
5. DPS may revoke, suspend, refuse to issue, or refuse to reissue any permit or license in accordance with this Code.

Sec. 8.4.5. Sign Permit Variance

A. Applicability

Any sign not listed in [Div 7.6](#), or which does not conform to the requirements in [Div 7.6](#), may apply for a sign permit variance from DPS.

B. Application Requirements

1. A sign variance application; and
2. A list of the persons and organizations notified 15 days prior to the hearing including:
 - a. the owner and all residents of each property that is contiguous or opposite to the proposed location of the sign. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium;
 - b. the head officer of any citizens association on file with the Planning Board that represents the area where the sign would be located;
 - c. any municipality or special taxing district in which the proposed sign would be located;
 - d. the technical staff of the Planning Board if the sign would be located on property subject to a Site Plan agreement; and
 - e. any other person or organization that expressed an interest in writing to DPS or the applicant before the notice is sent.

C. Approval Process

The application is filed with DPS and a hearing date is schedule with the Sign Review Board.

D. Approval Criteria

1. For all sign permit variances, DPS must consider:
 - a. the sign's size, shape, color, design elements, location, or cost;
 - b. compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area; and
 - c. any recommendation of the Planning Board or its technical staff.
2. DPS, after a hearing, may approve an application for a sign permit variance from the sign requirements of [Div 7.6](#) if:
 - a. the strict application of the sign requirements of [Div 7.6](#) would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on an applicant;
 - b. the sign permit variance is the minimum reasonably necessary to overcome any exceptional conditions; and
 - c. the sign permit variance can be granted without substantial impairment of the purpose of [Div 7.6](#).
3. After hearing, DPS or designee may revoke a previously granted sign permit variance if:
 - a. the applicant supplied inaccurate information, or
 - b. the terms of a variance have not been met.

4. DPS is prohibited from varying any requirement of Sec. 8.4.6 and from approving a sign permit variance for any sign prohibited under Sec. 7.6.4.
5. DPS may approve a sign permit variance without a Sign Review Board hearing if:
 - a. after receiving notice under Sec. 8.4.5.B.2., no person has expressed an intention by a specified deadline to oppose the application or otherwise appear at the hearing; and
 - b. DPS concludes that approval of a sign permit variance would not create any negative impact on the area where the sign is or would be located.
6. DPS may approve a variance for a sign on property subject to a conditional use if the Board of Appeals has approved the sign. Nothing in this Section (Sec. 8.4.5) prevents DPS or designee from imposing more restrictive conditions than the Board of Appeals, but DPS or designee must not approve a sign permit variance which is less restrictive than any condition set by the Board of Appeals.
7. DPS or designee may impose conditions and terms when approving a sign permit variance.
8. DPS or designee must notify each party of record of the sign permit variance decision when it is issued.

E. Appeal

Any party may appeal to the Board of Appeals under Sec. 8.8.1. for the following:

1. any final action of DPS related to permits and licenses within 30 days of the action;
2. any final action of DPS with respect to Sign Review Board recommendations within 30 days of the action; or
3. any final decision of the Sign Review Board.

Sec. 8.4.6. Sign Installer License

A. Applicability

The provisions of the sign installer license apply to a business which chooses to provide certification as a licensed sign installer.

B. Application Requirements

1. The joint applicants for a sign installer license must submit a complete application on a form approved by DPS, indicating:
 - a. the complete business identification including the address and telephone number of the business, the names of the principals, partners, and officers, and any affiliates of the business;
 - b. a statement of the experience, education, and training of the principal employee in the sign related activity;
 - c. other information which DPS may require.
2. A certificate of current general liability insurance, from an insurance company qualified to do business in the State of Maryland, of at least \$500,000 single limit for bodily injury and property damage per occurrence including contractual liability, personal injury, and independent contractors must accompany the application form.
3. A check in the amount of the application fee, examination fee, and license fee.

C. Approval Process

1. The applicant must establish and DPS may verify the minimum eligibility requirements of an applicant to be examined for a license as follows:
 - a. The applicant must have been regularly and principally employed in sign related activity for 2 years immediately preceding the application. DPS may credit the 2 years of experience upon certification of relevant education at a trade school or other educational institution which DPS deems to be comparable. One year (30 semester hours or Continuing Education Units) of relevant education may be considered as one year of experience. DPS may credit up to the maximum of 2 years of experience with education.
 - b. The applicant must be of good character. DPS may ascertain the character of the applicant from the references provided by the applicant and from independent sources, including the office of consumer affairs, the State of Maryland Office of the Attorney General, and the records of the department.

2. Upon the applicants satisfying the minimum requirements and filing a complete application for a license, DPS must provide the applicant with access to the sign ordinance and other related regulations and must schedule the applicant for an examination.
3. The applicant must receive a passing grade on an examination based upon the standards of this Article (Article 59-8) and administered by DPS.
 - a. DPS must grade the examination within 20 days of the examination date and notify the applicant, in writing, within 10 days of determining the results of the examination.
 - b. An applicant who fails to pass the examination is entitled to one reexamination, without resubmitting the license application. An applicant who fails to pass the reexamination must submit a new application for a license.
4. A license must be issued jointly to the business and to a person who is principally employed by the business and responsible for supervising the sign related activity. A business may obtain licenses for multiple employees.

D. Validity

1. A license is valid for one year from the date of issuance, and may be renewed by applying in person at DPS. Applicants for renewal must provide to DPS:
 - a. certification that the insurance requirements of Sec. 4.6.B .2 remain in compliance;
 - b. a check in the amount of the renewal fee; and
 - c. other information which DPS may require.
2. A license is not transferable. If the person and the business holding a license terminate their association, the license becomes invalid and a new license must be obtained.
3. A license is issued based upon the information submitted at the time of application. Any changes in the information must be submitted to DPS promptly.

E. Denial, Suspension or Revocation

1. DPS may suspend, revoke, refuse to issue, or deny renewal of a license if the applicant or licensee:
 - a. has secured the license through misrepresentation;
 - b. has failed to correct without additional charge, violations of any provisions of this Article (Article 59-8);
 - c. has been found by a court or the Board of Appeals to have violated the same provision of this Article (Article 59-8) more than 2 times;
 - d. has been found guilty of deceptive business practices;
 - e. has committed an act of gross negligence; or
 - f. has failed to notify DPS of changes to the information required on the license application.
2. DPS must provide written notice to the applicant or licensee of any action taken under Sec. 8.4.6.E.1. The notice must:
 - a. contain a statement of the reasons for the action taken and the right of appeal to the Board of Appeals; and
 - b. be delivered personally to the applicant, licensee, or authorized business representative or sent by certified mail to the local address in the license application.
3. A license may be suspended for up to 120 days upon a finding by DPS that a violation of Sec. 8.4.6.E.1. has occurred.
4. Following a revocation or refusal to renew, a licensee may request reinstatement after one year has elapsed.

F. Appeal

The suspension, revocation, denial or refusal to issue or renew a sign installer's license may be appealed to the Board of Appeals under Sec 8.8.1.C.

Sec. 8.4.7. Written Interpretation

[Editor's Note: To be added]

Div. 8.5. Nonconformities

[Editor's Note: The following language is a general outline of the structure for grandfathering provisions in the new Code. More detailed language will be forthcoming.]

Will include grandfathering provisions that provide for:

Sec. 8.5.1. New Grandfathering of Existing Structures and Uses as Conforming

Continuing and reconstructing existing uses and structures made non-conforming by the Rewrite.

Sec. 8.5.2. Existing Grandfathering

Continuing of existing grandfathering for a use or structure that is deemed to be conforming or lawfully non-conforming under the existing code.

Sec. 8.5.3. Continuing Existing Exemptions for Sub-standard Recorded Lots

Certain zones currently allow new development on a sub-standard lot recorded prior to a certain date. These provisions will continue existing exemptions.

Sec. 8.5.4. Allowing Expansions under Existing Zoning

The extent to which expansions should be allowed under existing zoning should be considered zone-by-zone. In certain zones, it may be appropriate to allow expansions under existing zoning in a manner that increases non-conformance with the new zoning, while in others it may not.

Sec. 8.5.5. Transitioning to New Zoning

The zoning code should contain some grace period during which a proposed development may obtain approvals and move forward under existing zoning. Such a grace period will ensure that projects in the pipeline will not have to be altered to comply with the new zoning code. The time period should be sufficient to protect projects that may be on the boards, but not so long as to unduly delay implementation of the new Code.

Div. 8.6. Violations, Penalties, and Enforcement

- A. Any violation of this Code may be punished as provided in state law.
- B. In addition to all other remedies provided by law, any violation of this Code may, as an alternative, be punished by a civil fine equal to the maximum allowed by [Article 28 § 7-116\(h\)](#) of the Maryland Code as amended and any penalty allowed by regulation adopted under [method \(2\)](#). Each day a violation continues is a separate offense.
- C. In addition to any other remedy provided by law, any violation of a Planning Board action, as defined in [Section 50-41](#), may be enforced under [Div 8.6.B.](#) or under [Section 50-41](#), at the discretion of the Planning Board.
- D. The Planning Board may assign a hearing officer designated by the Planning Board, including a Hearing Examiner from the Office of Zoning and Administrative Hearings, to conduct a public hearing and submit a report and recommendation on any alleged violation of this Code or any other Planning Board action as defined in [Section 50-41](#). The hearing officer must submit the required report and recommendation to the Planning Board a maximum of 60 days after the hearing record closes, but the hearing officer may by order extend the time to file the report .

Div. 8.7. Notice Standards

[Editor's Note: To be added]

Div. 8.8. Special Provisions

Sec. 8.8.1. Board of Appeals

A. Powers

In addition to any other power described in this Division (Div. 8.8), the Board of Appeals may compel the attendance of witnesses at hearings or meetings, and the chair or another member may administer oaths.

B. Duties

In addition to any other duties described in this Division (Div. 8.8), the Board of Appeals must:

1. ensure that a minimum of 3 members of the Board of Appeals are present when hearing or deciding any matter under this Code;
2. keep minutes of its proceedings, meetings and hearings; and
3. take each final action under this Code by written resolution. Each resolution must contain a statement of the grounds and findings forming the basis for each decision, and the full text of the resolution and the record of the members' votes must be incorporated into the Board of Appeals minutes.

C. Filing of Appeals

1. Appeals to the Board of Appeals may be made by any person, board, association, corporation or official allegedly aggrieved by the grant or refusal of a building or use-and-occupancy permit or by any other administrative decision based or claimed to be based, in whole or in part, upon this Code, including the zoning map.
2. Any appeal relative to a Variance or any administrative appeal may be filed with the Board of Appeals only after refusal of issuance or revocation of a building or use-and-occupancy permit by DPS or after the issuance of a permit in cases where it is alleged that such permit has been issued erroneously.
3. Appeals must be made on forms provided for that purpose, and all information required on such forms must be furnished by the appellant. Forms must be filed with the clerk to the Board of Appeals, and the appellant must pay the clerk for expenses incidental to the appeal. No form will be accepted by

the clerk unless it contains all pertinent information and is accompanied by the required fee to defray expenses.

4. Except as otherwise specifically provided by statute, any administrative appeals to the Board of Appeals from any action, inaction, decision or order of a department of the county government must be considered de novo.

Sec. 8.8.2. Sign Review Board

A. Composition

1. The Sign Review Board consists of 5 members:
 - a. appointed by the County Executive and confirmed by the District Council, and subject to [Section 2-148](#);
 - b. who are residents of the county;
 - c. one of whom must operate a business in the county; and
 - d. one of whom must be an architect licensed in Maryland. The Executive must request from the Potomac Valley Chapter of Maryland, American Institute of Architects, recommendations of architects who are qualified to serve on the Board, but the Executive is not limited to the Chapter's recommendation.
2. One member must be designated as chair by the County Executive, subject to confirmation by the District Council.
3. Each member serves a 3-year term, except that an appointment to fill a vacancy occurring before a term expires is for the remainder of the unexpired term.

B. Duties

1. The Sign Review Board must:
 - a. meet at least once a month at the call of the chair;
 - b. exercise its powers and duties only when a minimum of 3 members are present;
 - c. provide written decisions and actions of the within 10 days of the decision or action in a format as required DPS;

- d. approve the examination for the sign installer license administered by DPS under [Sec. 8.4.6](#); and
- e. exercise its powers and duties according to the procedures adopted by Council Resolution. These procedures must include:
 - i. the keeping of records of meetings and hearings;
 - ii. the establishment of requirements for hearing notification;
 - iii. the orientation and training of new members;
 - iv. the issuance of an annual report of activities and accomplishments;
 - v. standards of conduct regarding conflict of interest;
 - vi. standards of ethics; and
 - vii. the procedure for admission of evidence and testimony.

C. Powers

The Sign Review Board may:

1. advise DPS whether an application for a permit complies with this Code or needs a Variance;
2. order the appearance of a person or evidence at a hearing before them; and
3. approve a right-of-way sign under [Sec. 7.6.4.F.3](#) after receiving a recommendation from the appropriate transportation jurisdiction.

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