

THE COMMISSIONERS OF BARNESVILLE, MARYLAND

SUBDIVISION ORDINANCE

[AS OF MAY 15, 2006]

Sec. 1. Definitions.

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section. All terms used in this ordinance which are defined in the Barnesville Zoning Ordinance or the Montgomery County Road Construction Code shall have the same meaning as the definition therein, unless otherwise defined herein.

Commissioners. The Commissioners of Barnesville, Maryland.

Crosswalk. A crosswalk is a pedestrian path which does not lie within a street right-of-way and provides access between two streets across a residential block.

Development. The act of building structures and installing site improvements, both public and private.

Developer or subdivider. An individual, partnership or corporation (or agent therefor) that undertakes the subdivision of land or the activities covered by this ordinance, particularly the drawing up and submission of a subdivision plat showing the layout of the land and the public improvements required thereon. The terms include all persons involved in successive stages of the project, even though such persons may change and ownership of the land may change. Each term includes the other.

Easement. A grant or reservation by the owner of land for the use of all or a portion of such by others, including the public, for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. The usage of the word "easement," for land platting purposes in this ordinance, means that such an easement area is included within the dimensions and areas of the lots or parcels through which the easement may run, and is not to be separated therefrom as in the case of a dedicated right-of-way.

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

Improvements, public. Any of the following: Roads and

streets, grading, road pavement, curbs and gutters, sidewalks, pedestrian paths, storm sewer lines and drainage structures, curb returns, sidewalk and driveway entrances in right-of-way, guard rails, retaining walls, sodding, planting, monuments and street lights within a public right-of-way.

Liber and folio. Liber and folio number refers to book and page respectively as used in the recording system of the land records of Montgomery County.

Owner. A person or corporation holding a legal title in the land, but not including a mortgagee, a lienor, a lessee or a contract purchaser.

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

Planning Commission. The Barnesville Planning Commission appointed by the Commissioners of Barnesville.

Plat. The linen record plat required for the land records of Montgomery County, in accordance with the specifications for the same contained in this ordinance.

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

Right-of-way. A strip of land occupied or intended to be occupied by a road, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for other special use. The usage of the term "right-of-way" for land platting purposes in this Town shall mean that every right-of-way hereafter established and shown on a record plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such other lots or parcels. Rights-of-way intended for roads, storm drains or other use involving maintenance by a public agency, shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Road construction code. The Montgomery County Road Construction Code and Standard Specifications, as heretofore enacted and as hereafter amended or re-enacted.

Structure. Any building including accessory buildings and appurtenances thereto, including but not limited to fences, children's playhouses, antennas or other permanent facilities which occupy space on a parcel of land.

Subdivider. See "developer or subdivider."

Subdivision. The division of a lot, tract or parcel of land into two or more lots, plots, sites, tracts, parcels or other divisions for the purpose, whether immediate or future, of sale or building development, including resubdivision and, when appropriate to the context, relating to the process of subdividing or to the land or area subdivided, including the combination of lots, tracts or parcels of land; provided, that the definition of subdivision shall not include a bona fide division or partition of exclusively agricultural land not for development purposes.

Town. The municipality formally known as the Commissioners of Barnesville, Maryland.

Town Clerk. The Clerk of the Commissioners of Barnesville, Maryland.

Zoning Ordinance. The Zoning Ordinance of the Town as now exists or hereafter amended.

Sec. 2. Purpose of ordinance.

The purpose of this ordinance is to provide for:

- (a) The harmonious development of the Town in conformance with the Master Plan of the Town.
- (b) Coordination of roads within the subdivisions with other existing, planned or platted roads or with other features of the Town and its environs or with the Planning Commission's general plan or with any road plan for existing public roads adopted or approved by the Planning Commission as a part of the Planning Commission's general plan.
- (c) Adequate open spaces for traffic, recreation, light and air, or noise control by dedication or otherwise.
- (d) Reservation of lands for schools and other public buildings and for parks, playgrounds and other public purposes.
- (e) The conservation of or production of adequate transportation, water, drainage and sanitary facilities with special attention being given to the effect on the quality of and preservation of adequate underground water supply.
- (f) The preservation of the location of and the volume and

flow of water in and other characteristics of natural streams and other waterways.

- (g) The avoidance of population congestion.
- (h) The avoidance of such scattered or premature subdivision of land as would involve danger or injury to health, safety or welfare by reason of the lack of water supply, drainage, transportation or other public services or necessitate an excessive expenditure of public funds.
- (i) Conformity of resubdivided lots to the character of lots within the existing subdivision with respect to area, frontage and alignment to existing lots and streets.
- (j) Control of subdivision or building (except for agricultural or recreational purposes) in flood plain areas of streams and drainage courses, and on unsafe land areas.
- (k) Preservation of outstanding natural or cultural features and historic sites or structures, as determined by the Commissioners.
- (l) Preservation of access to the significant natural scenic views that are unique to the Town.
- (m) Other benefits to the health, comfort, safety or welfare of the present and future population of the Town of Barnesville.

Sec. 3. Applicability of ordinance.

This ordinance shall apply to the development of any land within the Town limits of the Town of Barnesville, as shown on the official Town Zoning Plan as may now exist or as may hereafter be amended.

Sec. 4. Administration of ordinance.

The following officials of the Town shall be responsible for the administration of this ordinance and shall have the responsibilities as set forth below:

a. Commissioners:

- 1. Consideration of amendments proposed by the Planning Commission, pursuant to State Code (Article 66B).
- 2. Initiation of appropriate proceedings to enforce the provisions of this ordinance.
- 3. Approval of all final record plats which have received Planning Commission approval.

b. Planning Commission:

1. Receive, file and check for compliance with all applicable regulations preliminary and final plats.
2. Give preliminary and final approval or disapproval of all subdivision plats submitted.
3. Make all other determinations required by the regulations herein.
4. Perform all the duties authorized by the State Law.

c. Town Clerk:

1. Maintain permanent and current records of this ordinance, including amendments thereto.
2. Receive and file all preliminary plats and final plats.
3. Forward copies of the preliminary and final plats to other Town, County and State offices and agencies for their recommendation and reports wherever appropriate.

Sec. 5. Effect of ordinance on other ordinances, etc.

This ordinance shall not be deemed to repeal or modify or otherwise affect in any manner any other ordinance, resolution, rule or regulation of the Town; provided, that wherever this ordinance imposes more stringent regulations, restrictions, limitations or requirements, the provisions of this ordinance shall prevail.

Sec. 6. Enforcement of ordinance.

Violations of this ordinance may be prosecuted, and compliance therewith enforced, in accordance with the applicable ordinances of the Town as authorized by Section 7.01 of Article 66B of the Annotated Code of Maryland and/or by requesting injunctive relief of the Circuit Court for Montgomery County.

Sec. 7. Recording--Generally.

Whenever the owner of lands in the Town shall subdivide his/her lands for development or building sites, streets, lanes or any other purpose, or whenever any street, avenue, public road or land shall be acquired by condemnation or otherwise by the state, county or Town or by any other person or body corporate, of which a plat is now required by the laws of this state to be recorded, the Town Clerk is hereby directed to receive and record same, as hereinafter directed; but the Town Clerk shall not receive for record, nor allow to be recorded in his/her office, any such plat, until the requirements of the succeeding sections of this

ordinance shall have been complied with.

Sec. 8. Same--Filing and approval of plats.

Whenever any subdivision or resubdivision of land is proposed to be made within the Town, and before any contract for the sale of or any offer to sell such subdivision is made, or before any development or construction of any building take[s] place within a subdivision or any part thereof, the subdivider thereof or his/or agent shall file, in accordance with procedure prescribed in this ordinance, a plat of the proposed subdivision with the Planning Commission for its approval and the approved record plat shall be recorded in the land records of the county, except as provided in Section 9 (Exceptions to Platting Requirements).

Sec. 9. Exceptions to platting requirements.

Recording of a subdivision plat under this ordinance shall not be required in the following cases:

- (a) **Agriculture.** A bona fide division or partition of exclusively agricultural or timber land not for any purpose other than continuing the present agricultural or timber use.
- (b) **Public taking.** Where a property has been changed in size or shape subsequent to the date of its inclusion within the Town, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right-of-way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.
- (c) **Adjoining properties.** The sale or exchange of parcels of land between owners of adjoining properties provided that:
 - (1) The purpose of the transfer is to merely add to existing holdings and that any future subdivision of this land shall be subject to approval in accordance with this ordinance, and
 - (2) The transfer of land will not cause the original parcel or lot to be reduced below the minimum size required by this ordinance or the Zoning Ordinance.
- (d) **Utility rights-of-way.** A bona fide division of a tract of land in order that one or more of the resulting

parcels may be used as part of an electric transmission line right-of-way or other public utility right-of-way; provided, that if a parcel resulting from such division is ever to be used as a building site for other than an electric transmission line or other public utility right-of-way, then before a building permit may be issued for such other use, a plat must be filed and recorded.

Sec. 10. Specifications; information to contain; surveyor's certificates, etc.

Such plats shall be made or drawn upon tracing linen or parchment of the uniform size of eighteen inches by eighteen inches, shall contain the directions and distance of all lines drawn thereon or such of them as will enable each lot, block, avenue or lane thereof to be accurately described by metes and bounds, courses and distances, calculated to the true meridian; there shall be endorsed upon each of such plats a certificate of the surveyor making the same, that the lots or blocks and squares therein indicated are a part of the whole land conveyed to the maker of a plat by a deed or conveyance, of which the date and place of record shall be given; and when such a plat shall be of land acquired by more than one conveyance, the outlines of the land acquired by the several conveyances shall be indicated by red lines drawn upon such plat, and the surveyor's certificate shall assign the various lots, blocks, etc., to the respective conveyances out of which the same shall have been taken, and shall also certify that a monument stone of not less than six inches in diameter at the top has been placed two feet in the ground at each end of one of the principal lines of such plat, and that the locations of such stones are properly indicated on such plat; provided, however, that nothing in this section shall prevent the maker of any such plats from placing the same on record in sections of the size hereinbefore provided.

Sec. 11. Dedications to public use; area in square feet to be shown.

No plat showing or containing a dedication of property to public use, for any purpose whatsoever, shall be recorded or accepted for recording after the effective date of this ordinance, unless there shall be stated thereon, in square feet, the total amount of land dedicated to public use thereby.

Sec. 12. Filing; fees; indexing, etc.

The maker of such plat when the same shall be presented for record shall furnish the Town Clerk, two copies of such plat, with a direction, endorsed thereon and signed by the owner of the land subdivided, to the Clerk to record and plat, one of which shall be

by the Town Clerk placed in and attached to the book hereinafter provided for, and the other shall, by the Town Clerk, be attached to and made a part of the "substance records," now by law required to be kept, and shall transmit the same with the "substance record," to the Clerk of the Circuit Court as now by law directed; and shall index in the general index of the land records kept by him/her all plats so filed and recorded, both in the names of the subdivisions as given upon such plats and in the name of the owners so signing the direction aforesaid; and the Town Clerk shall receive each plat or section of the plat so filed with him/her.

Sec. 13. Plat books.

The Town Clerk shall maintain suitable books to be designated "Plat Book No.," etc., in which such plats shall be included. The Clerk of the Circuit Court shall also maintain the necessary plat books.

Sec. 14. Effect of filing.

Such plats, when filed for record as in this ordinance provided, shall constitute a part of the land records of the Town, and shall have the same force and effect as to notice as is now given to properly recorded deeds.

Sec. 15. Streets, etc., dedicated to public use; abandonment of subdivision.

When the plats are so recorded, those portions of lands designated on the plats as drainage ways, paths, walks, streets, roads, avenues, lanes and public parks or squares, or other areas dedicated to public use shall be and the same are hereby declared to be forever dedicated to public use, and shall not thereafter, on any pretext whatsoever, be altered or taken for private use; provided, however, that nothing herein contained shall affect the rights of any person owning or claiming any interest in such land derived by, from or under any persons other than the maker of such plat, or by, from or under such maker prior to such subdivision; and provided further, that the maker of any such plat, his/her heirs or assigns, shall have the right to apply by petition to the applicable government, (State, County or Town), to abandon any such dedication to public use and to abandon the subdivision of lands so made by him/her, or any part thereof, and reconvert the same into one tract or parcel; and the Commissioners, if convinced upon such proof, and if such notice by publication or otherwise, or as they shall direct, that no damage can be in anywise sustained by the general public or persons other than the petitioners, shall have power to pass an order authorizing and empowering such petitioner to abandon such subdivision either in whole or in part, provided, however, that any property dedicated

to public use in the name of the State of County shall require the affirmative agreement from said political subdivision for the abandonment of such property.

Upon filing with the Commissioners an initial petition for abandonment, the petitioner shall serve a copy of such petition upon the following agencies and public utilities in accordance with the Maryland Rules of Procedure for service upon parties after the initial pleading:

- (1) The Maryland National Capital Park and Planning Commission;
- (2) The Barnesville Planning Commission;
- (3) All gas, electric and telephone utility companies franchised by the state or the county to service the Town;
- (4) State Highway Administration;
- (5) Director, Montgomery County Department of Transportation.

In arriving at its decision, the Commissioners shall consider any recommendation on the proposed abandonment filed in the proceeding by any of the above agencies and utility companies; provided, however, that, if such agency or utility company has not filed a recommendation with the Commissioners within sixty days from the date of service upon such agency or utility company, the consent to the proposed abandonment by the agency or utility company shall be presumed. The Commissioners shall not grant any petition for abandonment until ten days after the expiration of the aforementioned sixty days or such other time subsequent thereto as directed by the Commissioners. The Planning Commission is authorized to file a petition with the Commissioners to abandon any dedicated areas above described. The same procedures which apply to a petition for abandonment by the owner shall apply to petitions by the Planning Commission. This section shall not apply to the abandonment of drainage ways, streets, roads, avenues or lanes which have been used by the public or accepted for maintenance by Montgomery County or the State, in which case proceedings for abandonment shall be brought under Article V of Chapter 49 of the Montgomery County Code and/or applicable provisions of State law.

Sec. 16. Recording copies of plats previously filed--Generally.

Whenever the owner of any lands of which a plat has been heretofore made and placed in the land record books of the county shall cause to be made an exact copy of such plat, except as to necessary change of scale and the addition of such matter as may

be necessary to make the same conform to the requirements of the preceding sections, and shall comply with the requirements of the preceding sections as applied to plats of new subdivisions, the same may be admitted to record and filed as other plats, and the Town Clerk shall thereupon remove the original plat from the record books, or place where the same shall have been filed, and endorse upon such record book or place where the same has been filed, a certificate that the plat heretofore filed in such record book has been copied and made to conform to the provisions of this ordinance, and has been filed and recorded under the provisions of this ordinance, which certificate shall give the Liber and Folio where the new plat may be found; provided, that before the new plat shall be entitled to record, as hereinbefore provided, there shall be endorsed upon same, in addition to the other certificate, required by this ordinance, the certificate of Registered Land Surveyor, that the same is an exact copy of such original plat, except as to those changes made necessary by the provisions of this ordinance.

Sec. 17. Same--Effect on instruments previously recorded.

After such new plats shall have been recorded, and such certificate endorsed upon the land record books, as hereinbefore provided, all deeds, mortgages and other instruments of writing conveying any interest in any lands, referring for a part of the description of the same to a plat mentioned as being recorded among the land record books of the county, shall be taken and deemed to refer to the place at which the new plats shall, by the Clerk's certificate, be stated to be recorded.

Sec. 18. Limitations on issuance of building permits.

No building permit shall be approved for the construction of a dwelling or other structure on any recorded lot or parcel located within the Town, until the Commissioners have declared such lot or parcel to be eligible for immediate development, in accordance with guidelines for regulated development included in the Town Ordinances and the Town Master Plan. Furthermore, no building permit shall be issued if the Planning Commission determines that the subdivider or developer has failed to comply with any part of this ordinance. No such approval shall be required for the erection of a structure for purely agricultural use on property or a tract, parcel or lot of property used solely for agricultural use.

Sec. 19. Road grade approval prerequisite to construction of improvements or installation of utilities.

No final grading, sidewalk or pavement construction, or installation of utilities shall be permitted in the bed of any proposed street in any subdivision until the grade has been

approved in accordance with Section 22 (Required Improvements) of this ordinance.

Sec. 20. Dedication of streets, roads, etc.

Prior to the issuance of building permits, a plat shall be filed and recorded to effectuate the dedication of or widening of a highway or street or any part thereof, as may be required by the State of Maryland or Montgomery County. The Town does not maintain, nor will accept by dedication, any public streets or rights of way.

Sec. 21. General procedures for submission of subdivision plans.

(a) **Phases.** In order to provide an orderly basis for the processing of subdivision plans prior to approval, the Planning Commission will consider such plans in two stages, as follows:

- (1) The preliminary plan shall be submitted with application and fee for conditional or tentative approval.
- (2) The final plat for recordation of all or part of a subdivision shall be submitted with required supporting data and documents, together with application for approval and plat fee.

(b) **Rejection.** The Planning Commission may reject a subdivision for part of a tract if the size and shape of the property as submitted prevent designing a plan which will meet standards established by these regulations and require all or a larger part of the tract to be platted to meet this ordinance, the Road Construction Code or other ordinances or regulations.

(c) **Area within pending zoning map amendments.** In order to facilitate the orderly coordination of this ordinance with the Town rezoning procedures, the Planning Commission may reject a proposed plan of subdivision if all or any part of said plan lies within the boundaries of a pending amendment to the zoning map. Any plan so rejected may be resubmitted to the Planning Commission without additional filing fees immediately upon the final disposition of the pending amendment; provided, that this subsection shall not apply nor shall an additional fee be required to refile whenever any map amendment is still pending on the whole or any part of such plan after the passage of four (4) months from the date of the original submission of the plan.

(d) **Pending master plan changes.** In order to facilitate the orderly coordination of this ordinance with Town planning and zoning procedures, the Planning Commission may reject a proposed plan of subdivision if all or any part of said plan lies within

the boundaries of and conflicts with the proposals of a pending Master Plan or Master Plan Amendment, as designated by the preliminary draft of the Master Plan or Master Plan Amendment duly prepared by the Planning Commission or other planning body authorized by the Commissioners to prepare such plan or amendment.

In determining whether a proposed plan of subdivision conflicts with a pending Master Plan or Master Plan Amendment, the Planning Commission shall utilize the latest version of the Master Plan or Master Plan Amendment upon which the Commission has taken formal action. Any plan of subdivision so rejected may be resubmitted to the Commission, without additional filing fees, following the final disposition by the Commissioners of the pending Master Plan or Master Plan Amendment; provided, however, that whenever any such Master Plan or Master Plan Amendment or any redraft or reformulation thereof is still pending, on the whole or any part of the said subdivision plan, after the passage of four months from the date of the original submission of the subdivision plan, a subdivision plan rejected in accordance with the provisions of this subsection may be resubmitted, without any additional fee, shall not be rejected again under the provisions of this subsection.

Sec. 22. Required public improvements.

(a) **General.** Upon approval of the preliminary plat, the subdivider shall prepare and submit to the Planning Commission plans for the installation of all required public improvements set out herein. Such plans shall be sufficient to show the proposed location, size, type, grade, elevation and other significant characteristics of each public improvement. All such public improvements shall be designed and completed in compliance with the standards, plans and specifications set forth in this ordinance. Copies of such public improvement plans will be forwarded by the Town Clerk to the appropriate County and State agencies for study and recommendation. Such recommendation shall be submitted to the Planning Commission which will then approve or disapprove the plans and notify the subdivider of its decision.

(b) **Construction of new roads, sidewalks, etc.** The roads, streets and sidewalks with appurtenant drainage and other integral facilities in each new subdivision shall be constructed by the subdivider or developer in accordance with the specifications of the State Highway Administration, or the Road Construction Code of the County, whichever is applicable. The Town does not maintain public roads within the boundaries of the Town.

(c) **Existing frontage roads.** In the case of a plat containing lots fronting on an existing state or county-maintained road, the subdivider shall provide, in addition to any required dedication for widening the existing right-of-way, such reasonable

improvement to the road in front of such lots necessary to serve the needs of such subdivision for access and traffic as required by the Road Construction Code of the County or the State Highway Administration as appropriate.

(d) **Pedestrian paths.** Where a pedestrian path or sidewalk is included in a subdivision plan, the subdivider shall grade and construct a paved walk therein, such construction to be according to a plan approved by the Planning Commission in each case.

(e) **Storm drainage.** In connection with the street improvement program in every new subdivision, the subdivider shall do such grading and provide such drainage structures and storm sewers as required and approved by the Planning Commission and the applicable authorities of the State and County government regarding storm water management.

(f) **Markers and monuments.**

- (1) Permanent reference monuments shall be placed as required by the Planning Commission. Such permanent reference monuments shall be stone or concrete at least thirty-six inches in length and six inches square with suitable center point and shall be set flush with the ground.
- (2) Metal, magnetically detectable property line markers three-quarters of an inch in diameter and twenty-four inches in length shall be placed in the ground flush with the final grade at all lot corners, intersections of streets, intersections of streets with plat boundary lines and at all points on street and boundary lines where there is a change in direction or curvature, unless such point coincides with the location of a reference monument. All markers shall be properly set in the ground before the streets are accepted for public maintenance.
- (3) After completion of road and street grading and paving in the subdivision and the grading of lots, it shall become the duty of the registered land surveyor who prepared and signed the subdivision record plat pertaining to such streets or his/her successor to place the markers and monuments in the ground as specified and as certified by such registered land surveyor on the record plat. Prior to the issuance of any building permits for structures, a certificate by a registered land surveyor shall be presented to the Planning Commission that all survey monuments and markers are in place.

(g) **Preservation of top soil.** Top soil shall not be removed from residential lots or used as spoil, but shall be redistributed to its approximate former depth. In all cases, good soil conservation practices shall be used to prevent soil erosion and siltation during and after subdivision development.

(h) **Installation of improvements.** All public improvements shall be completed or assured as provided in subsection (f) of section 34 infra (Same--Procedure for Approval and Recording).

Sec. 23. Roads and streets--Plat and plan requirements.

(a) **Road improvements.** Subdivision plats shall include where applicable recommendations of the State Highway Administration as to state roads and Montgomery County as to county roads and access thereto.

(b) **Private nature of streets.** Unless dedicated to the public use of Montgomery County or the State of Maryland, all streets and roads constructed, other than widening and/or extension of existing County and/or State streets and roads shall not be dedicated to public use of the Town, and the Commissioners shall not be obligated to accept the same, but instead shall remain as private roads for the use and benefit of the property owners of the subdivision, visitors thereto and sojourners therein.

(c) **Easements & Maintenance agreements.** All private roads, driveways, pedestrian paths, sidewalks, and street lighting constructed within the Town for the purpose of serving more than one (1) lot shall be subject shall be shown as an easement on the plat and shall be governed by a maintenance agreement between the lot owners recorded among the Land Records of the County, the substance and text of which shall be subject to the review and approval of the Planning Commission prior to the approval and recordation of any subdivision plat.

Sec. 24. Same--Design standards.

(a) **Minimum widths of rights-of-way.** The subdivider shall be required to make those dedications to public use and improvements to County and State Roads as required by those entities, and the same shall be shown on the subdivision plat.

(b) **Street names.** No street names, including private roads, shall be used which have not been approved by the Planning Commission .

(c) **Configuration & Location.** All private streets or driveways lot shall be configured, located and constructed so as to provide adequate sight distances when entering a public right of way, shall be of sufficient width and design to allow safe and adequate access for fire fighting and emergency apparatus, and in the case of a common private street or driveway serving more than one (1) lot, the minimum width of the easement area for ingress and egress shall be thirty (30) feet.

Sec. 25. Lot design.

(a) **General provisions.**

(1) **Lot dimensions.** Lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development or use contemplated and shall be approved by the Planning Commission. In no case shall the Planning Commission approve a subdivision plan which provides for any lot smaller than the minimum size permitted by the applicable zoning classification. All lots shall be substantially similar in configuration to adjacent and confronting improved lots and parcels.

(2) **Lots to abut on public street.** Except as otherwise may be provided in the Zoning Ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road, with the minimum lot frontage as required by the Zoning Ordinance. In exceptional circumstances, the Planning Commission may approve not more than three (3) lots served by a private driveway or private street or right-of-way; provided, that proper showing is made that such access is adequate to serve the lots for emergency vehicles, for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent lands, and the Subdivider has obtained a variance from any applicable provision of the Zoning Ordinance from the Board of Appeals. Notwithstanding the foregoing, every lot must be configured so as to have at least the minimum frontage on a public street as may be required by the Zoning Ordinance for the particular zone in which the property is located, and this requirement may not be varied by the Board of Appeals. *[Amended by Ordinance 2006-03]*

(3) **Side lines.** Side lines of interior lots shall be perpendicular to the street line, or radial to a curved

street line, unless determined by the Planning Commission that a variation from this rule will result in a better layout.

- (4) **Double frontage lots.** Double frontage lots, meaning a block having only one tier of lots between two streets or roads, public or private, shall not be approved except where unusual topography, orientation or the size of the subdivision permit no other feasible way to subdivide.

(b) **Resubdivision.** Lots on a plat for the resubdivision of any lot, tract or other parcel of land that is a part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

Sec. 26. Public sites and adequate open spaces.

- (a) **Adequate open space for traffic, coordination of roads, utilities and storm drainage.**

(1) **Roads.** In its consideration of the approval of a proposed subdivision, resubdivision, or of a preliminary plan of subdivision, or resubdivision, the Planning Commission shall require the dedication to public use of adequate open spaces for traffic and the coordination of roads within the subdivision with other existing, planned or platted roads, or with other features of the Town, or with the Planning Commission's general plan. Such dedication to public use shall be to the full extent of any and all planned County or State rights-of-way for all roads, streets and highways, including widening of any existing street, determined to be necessary and proper and such as would be required by reason of the maximum utilization and development of the subject property in its present zone classification or that higher use shown on any adopted or approved master plan.

(2) **Rights-of-way and easements other than roads.** The Planning Commission may require dedication to public use of rights-of-way platting of easements of land necessary for such public uses as pedestrian paths, utilities and storm drainage facilities. The extent and width of pedestrian path rights-of-way shall be as determined in each case by the Planning Commission. The extent and width of drainage rights-of-way shall be determined by the Planning Commission in consultation with an Engineer which may be employed by the Town and in consultation

with the applicable office of Montgomery County after receipt of drainage studies prepared by the applicant's engineer.

(b) **Refusal of areas not suitable for public use.** Whenever a preliminary plan or record plat includes a proposed dedication of land to public use and the Planning Commission finds that such land is not required or not suitable for public use, the Planning Commission may either refuse to approve such dedication, or it may require the rearrangement of lots in the proposed subdivision to include such land.

(c) **Excessive grading.** If it shall appear from analysis of the preliminary plan that unusual and abnormally excessive grading will result from the proposed development and if the Planning Commission finds that the same can be lessened by a rearrangement of lots and streets or other platting devices, the Planning Commission may require that the subdivision be so rearranged or replatted.

Sec. 27. Control of flood plain areas and unsafe land.

(a) **Flood plain.** The Planning Commission shall, when it deems necessary for the health, safety, comfort or welfare of the present and future population of the Town and necessary to the conservation of water, drainage and sanitary facilities, restrict subdivision for development of any property which lies within the one hundred year flood plain of any stream or drainage course. One hundred year flood plain is defined as that area which would be inundated by storm water run off equivalent to that which would occur with a rainfall of one hundred year frequency after total development of the watershed.

(b) **Unsafe land.** The Planning Commission shall also restrict such subdivision of any land which is found by the Planning Commission to be unsafe for development use by reason of its being subject to flooding, erosive stream action, unstabilized slope or fill or otherwise located in a situation so that safe, healthful development cannot be maintained on the land.

(c) **Building restriction line.** A building restriction line is a line designating an area in which development or building is restricted to agricultural or recreational purposes, except as otherwise provided herein. A building restriction line shall be used to designate flood plain or unsafe building areas in all cases where the area is not shown on the plat as right-of-way or easement in accordance with this ordinance.

(d) **Part of lot.** The Planning Commission may permit, as to flood plain or unsafe land, that it be platted as a part of a lot

in which there is sufficient safe ground to erect a building or dwelling within the required setbacks of the zoning classification. In the event that such land is platted as a part of a buildable lot, there shall be placed on such platted lot a building restriction line which shall be located so as to provide at least a twenty-five foot setback between any building and the unsafe areas and a greater setback where necessary to provide positive drainage between the building and unsafe area. For building sites located near a flood plain area, the elevation of the lowest floor in the building, including basements floors, shall be above the calculated level of the one-hundred year flood plain.

(e) **Removal.** When any unsafe or flood plain land has by subsequent change in conditions become safe for building by finding of the Planning Commission, the building restriction line may be removed by the recording of a new plat approved by the Planning Commission.

(f) **Denial of building permit.** No building permit shall be issued within any building restriction line or in other areas within a flood plain or on unsafe land for any structure or additions to existing structures except for fences, agricultural structures, public utility and other such structures approved by the Planning Commission or Commissioners as necessary for the safety and welfare of the citizens of the Town; provided, however, that this section shall not be construed to prohibit the issuance of building permits for the reconstruction and repair of single-family dwellings existing on the date of adoption of this ordinance and located within any one hundred year flood plain which abuts a creek.

Sec. 28. Preapplication submissions.

Subdivision applicants are authorized to submit informal preapplication plans, including location maps, sketch plans and such other information as is necessary, and to seek advice from and confer with the Planning Commission prior to formal submission of a preliminary plan.

Sec. 29. Preliminary subdivision plans--Filing and specifications.

(a) **General.** Every proposed subdivision or resubdivision shall be submitted to the Planning Commission for tentative or conditional approval in the form of a preliminary plan prior to the submission of a subdivision record plat. The plan shall show graphically all facts needed to enable the Planning Commission and other public agencies to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the

public health, safety and welfare and the regulations, ordinances and laws applicable.

(b) **Filing of plan with application and processing fee.** The subdivider or his/her agent shall file fifteen copies of the preliminary subdivision plan with the Planning Commission including one which shall be in the form of a reproducible drawing, together with the application for its approval and at the same time shall deposit the appropriate fee for its processing. Fees for processing shall be established by resolution adopted by the Commissioners from time to time. Such fees shall not be higher than reasonable necessary to cover the cost of processing and administration.

(c) **Application for approval.** Written application by the owner or agent shall be filed with each preliminary plan and shall be made on forms prescribed by the Planning Commission and contain such information as the Planning Commission shall require.

(d) **Supporting information and detail.** The drawing shall be a graphic representation of the proposed subdivision and shall be submitted with the application in such form and with such information and supporting detail as may be required by regulations of the Planning Commission furnished with the application form. Details and information required shall include but is not necessarily limited to:

- (1) Scale drawing of one hundred feet to the inch, or other scale which may be required by the Planning Commission according to the size of the development.
- (2) Title information.
- (3) Certificate of registered professional engineer or registered land surveyor as to source and accuracy of boundary lines, topographic data and other engineering or survey data.
- (4) Existing features, including but not limited to significant tree groves, scenic or historic areas, streams, drainage areas and outstanding natural topographic features.
- (5) Boundary outline, with survey tied into the Maryland State Grid System.
- (6) Locations and names of adjacent subdivisions with lot, block and record plat number of immediately adjoining subdivided land, or in the case of unsubdivided land, parcel numbers sufficient to identify the same.

- (7) Location, names, widths of rights-of-way and construction details for all roads and dedicated rights-of-way and easements.
- (8) Location of existing and proposed utilities, such as storm drains, utility transmission lines, etc.
- (9) Existing topography with contour intervals not greater than five feet.
- (10) Vicinity location map.
- (11) Graphic representation of property drawing of proposed subdivision, including:
 - a. Lot and block layout.
 - b. Roads, including driveways and private or public streets, shall, in general, be laid out to preserve and encourage open spaces, tree cover, scenic vistas and outstanding natural topography. Road grades shall be shown indicating the percentage of tangent grades, the length of crest and sag vertical curves and elevations therefor. In cases where the topography or other topographical conditions make difficult the ready determination of the adequacy of the road grades, the registered surveyor or registered engineer submitting such grades may be required to substantiate subdivision layout with plans, profiles or designs and certifications as may from time to time be required by the Planning Commission which would tend to prove the desirability and adequacy of the proposed development.
 - c. Storm drain--The preliminary plan shall be supported by a preliminary storm drain study prepared in accordance with the requirements of Montgomery County.
 - d. Sites for public uses and open spaces.
 - e. Rights-of-way and easement for proposed slopes, paths, utilities, on and off site storm drainage and other required improvements as well as existing adjacent slopes, paths, utilities, on and off site storm drainage.
 - f. Sites for other than single-family dwellings or agricultural uses.
 - (1) All sites proposed for uses other than single family dwelling or agricultural uses shall be indicated for such use on the preliminary plan, together with scaled dimensions and approximate area of each such site. The

- proposed use shall be in accordance with the uses for which the property is actually zoned.
- (2) When the property is included in more than one zoning classification, the lines showing the limits of each classification shall be clearly indicated.
 - (3) Interior road or street access, whether private or proposed to be indicated, shall be shown.
- g. Wells and septic systems. Before submission to the Department of Environmental Protection, all preliminary subdivision plans for lots in areas where individual wells, and septic systems are to be installed shall show, in addition to the usual data, the following items:
- (1) The proposed location of water wells for each lot. Where there are existing wells on the property or on adjoining lots within one hundred feet, they shall also be shown.
 - (2) A circular area with radius of one hundred feet around each well to denote clear space in which no final sewage system is to be located.
 - (3) The "usable area" for sewage disposal, which shall be situated beyond the one hundred foot radius and downgrade from the proposed house location and shall all be in virgin soil.
 - (4) Any existing sewage disposal systems on the property or on adjoining lots within one hundred feet.
 - (5) Swamps, rock outcrops and flood plains, when the same exist.
 - (6) A ten-foot zone surrounding the water service line to buildings, free and clear of any sewer lines, systems or part thereof.
 - (7) Notwithstanding any regulations of Montgomery County to the contrary, except for a septic system which has failed on a property presently improved by an existing single family dwelling, in which case a septic easement may be obtained and utilized for the failed system from adjacent property, no subdivision shall be approved which anticipates septic disposal on property other than the lot to be served by the septic system and reserve areas. For all new development and subdivision, septic facilities, including reserve areas as required by Montgomery County Health Regulations, shall be located on the lot intended to be served.

(12) Proposed agreement between lot owners for continued maintenance of common areas, streets, lighting and storm water management.

(13) Proposed Forest Conservation Plan and Natural Resources Inventory as required by the municipal Forest Conservation Ordinance and/or state law.

(14) A map or layout of the significant natural views for each dwelling within 500 foot distance of the boundaries of the provided subdivision shall be listed and a map representing the same shall be submitted. The applicant will evaluate the effect that the proposed use may have on the natural views enjoyed by existing dwellings. This evaluation will also indicate methods proposed to be used to minimize adverse effects. These methods may include restrictions on building placement, bulk, or height that might be applied to uses of the proposed subdivision.

Sec. 30. Same--Approval procedure.

(a) **Referral of plan.** Two copies of the plan shall be referred forthwith to each or any of the following agencies when such agency has a direct interest in the installation or maintenance of utilities, roads or other public services which will serve the subdivision, for their review and recommendation with respect to approval of the plan. These agencies shall include, but not be limited to, the Commissioners of Barnesville, the Board of Education, State Highway Administration, Maryland Environmental Health Administration, Montgomery County Department of Environmental Protection, Maryland National Capital Park and Planning Commission, Montgomery County Department of Transportation.

(b) **Recommendations from public agencies.** Each agency to which a given plan is referred shall return one copy of the plan to the Planning Commission within thirty days with its recommendation noted thereon, such as "Approval," "Approval subject to modification" or "Disapproval" for stated reasons. If such recommendation is not made within the thirty-day period by any agency to whom referred, the plan shall be deemed to be approved by it, provided there has been compliance with the provisions of subsection (c) below. The period may be extended by the Planning Commission for an additional thirty days upon request of such agency stating reasons therefor in writing.

(c) **Road grade and road profile.** Prior to final approval of a preliminary plan by the Planning Commission, the subdivider shall furnish road and pedestrian path grades and a street profile

approved in preliminary form by either an engineer employed by the Town a Town Engineer and/or the County Department of Transportation and/or the State Highway Administration, as appropriate.

(d) **Adequate public facilities.**

- (1) No preliminary plan of subdivision shall be approved unless The Commissioners of Barnesville determine that public facilities are adequate to support and service the area of the proposed subdivision. An applicant for a subdivision of land shall submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by the residents or occupants of said subdivision.
- (2) Public facilities may be determined to be adequate to service a tract of land or an affected area when the following conditions are found to exist:
 - (a) The tract or area is adequately accessible by means of roads. After consideration of the recommendation of the State Highway Administration and/or the County Department of Transportation concerning the applicable levels of traffic service, peak hour use and average use and other pertinent information, said area or tract to be subdivided shall be deemed adequately accessible via roads if existing roads are adequate to accommodate the traffic that would be generated by the subject subdivision in addition to existing traffic, and are publicly maintained all-weather roads.
 - (b) The tract or area is situated as not to involve danger or injury to health, safety or general welfare. Such danger or injury may be deemed not to exist:
 - (1) When physical facilities, such as police stations, firehouses, health clinics and schools, in the service area for the preliminary subdivision plan are currently adequate; and
 - (2) The applicant provides written assurances that adequate public utility services will be available to serve the proposed subdivision.
 - (c) Existing or proposed street access within the tract or area is adequate. Street access may be deemed adequate if the streets:

- (1) Are adequate to serve or accommodate emergency vehicles;
- (2) Will permit the installation of public utilities and other public services;
- (3) Are not detrimental and would not result in the inability to develop adjacent lands in conformity with sound planning practices;
- (4) Will not cause existing street patterns to be fragmented;
- (5) Will not create a congested or hazardous condition; and
- (6) Are in conformance with the Master Plan.

(3) In considering questions of adequacy of public facilities, as set forth above, the Planning Commission shall consider, but not be limited to, the nature, extent and size of the proposed subdivision and its impact in terms of the following:

- (a) The estimated increase in population likely to result when said subdivision is developed in context with projected densities, as anticipated by the adopted Master Plan of the Town of Barnesville and currently approved subdivisions, in the surrounding area and immediate vicinity of the proposed subdivision.
- (b) The present or projected state of development likely to result when said subdivision is developed in context with projected densities, as anticipated by the adopted Master Plan of the Town of Barnesville and currently approved subdivisions, in the surrounding area and immediate vicinity of the proposed subdivision.
- (c) The avoidance of excessive expenditure of public funds necessitated by the proposed subdivision.

(4) In considering questions of adequacy of public facilities, the Planning Commission may request and rely upon the comments and recommendations of the Montgomery County Planning Board of the Maryland National Capital Park & Planning Commission and/or its staff personnel.

(5) Installation of improvements. All public improvements shall be competed or assured as hereinafter provided. Where the entity seeking subdivision has not previously been adjudicated a bankrupt and has not violated any previous agreement, then prior to the approval by the Planning Commission of any final plat or portion thereof, the entity seeking subdivision shall present to The Commissioners of Barnesville, a municipal corporation, an agreement approved by the Town to complete all public improvements as required

and to assure final completion by obtaining such permits, bonds or providing for such sureties as may be required by applicable laws. Such agreement shall provide that prior to the occupancy by any persons of any buildings within such subdivision that the person(s) or entity seeking subdivision shall have complied with or shall have obtained all necessary permits and posted all sureties required to guarantee final completion of the improvements and all public facilities required to be constructed by the person(s) or entity seeking subdivision necessary to serve such buildings, including, but not limited to, permits and sureties for such roads, drainage ways and walkways to provide adequate traffic circulation for and access—to serve such buildings and that portion of the subdivision being developed. The Agreement may also require, where applicable, the obtaining of road permits and posting of surety for roads, drainage ways and walkways in the subdivision which are necessary to provide access and traffic circulation to adjoining tracts of land, schools and other public property. A new agreement shall be signed for each such resubdivision. If the subdivider is a corporation, the agreement shall be signed individually by the principal officers of the corporation as well as by the corporation. The Commissioners of Barnesville shall be authorized to proceed at law or equity or to take such other action as necessary to enforce the provisions of such agreement, including, where applicable, the withholding or the suspension or revocation of permits.

(e) Presentation of plan to Planning Commission.

Every preliminary plan shall be presented to the Planning Commission for formal action at the earliest regular meeting after the Planning Commission has completed its study of the preliminary plan, together with a report of all other recommendations or communications received concerning such plan; provided, that the plan shall be presented to the Planning Commission not later than the first regular meeting which occurs after sixty days have elapsed from date of receipt of such plan, plus any extension of time granted for review of such plan, plus any extension of time granted for review by other agencies. The Planning Commission, within 30 days of such presentation shall act to:

- (1) Approve, if in accordance with the purposes and other other requirements of these regulations.
- (2) Approve, subject to conditions or modifications necessary to bring the plan and the proposed development into accord with this ordinance and other regulations. Any modification as to roads or grades shall be subject to approval by an Engineer employed by the Town and/or

County Department of Transportation and State Highway Administration where applicable.

- (3) Disapprove, if contrary to the purposes and other requirements of these regulations and/or the Town Zoning Ordinance, said disapproval to be by written notice to the applicant stating the reasons therefor.

(f) Disposition of approved plans.

Following each Planning Commission meeting, every preliminary plan which has been approved or conditionally approved will be appropriately marked to indicate the action of the Planning Commission. The original tracing will be returned to the applicant and copies thereof showing the Planning Commission's action shall be furnished each interested agency. Minor modifications approved by the Planning Commission may be indicated on the tracing as revisions and so noted beneath the approval stamp. Any substantial modification approved by the Planning Commission will require that the tracing be returned to the applicant for complete revision before receiving the approval stamp. A copy of the original plan with modifications and a copy of the revised plan as approved will be filed in the record of the Planning Commission.

(g) Time limit on approval.

If within one year from the date of approval of a preliminary plan, the subdivider has not placed on final plats all of the area covered by such approved preliminary plan and filed the same with the Planning Commission and Town Clerk, then the approval for the remainder of the plan shall expire. The subdivider may apply for an extension of the approval of a preliminary plan, subject to the same limitations as above.

(h) Revocation of approval.

Approval of a preliminary plan may be revoked by resolution of the Planning Commission at any time prior to the approval of the final record plat covering the proposed subdivision, upon a finding by the Planning Commission that any conditions attached to the approval of such preliminary plan have become inapplicable or that the plan itself has been rendered impractical by reason of an amendment or addition to the general plan or any portion thereof, or by a proposed public improvement which conflicts with such plan or other condition or circumstances which involved injury or damage to the public health, safety or welfare. The Planning Commission shall afford a landowner or subdivider an opportunity to be heard prior to taking any action to revoke approval of a preliminary plan by sending such owner or subdivider a notice by

certified mail not less than five days prior to the date of the proposed action and giving the time and place thereof. The notice shall state the reasons for the proposed revocation.

(i) **Sediment control & Storm water management.**

The approval of all preliminary plans and extensions of previously approved plans shall include provisions for erosion and sediment control and storm water management to be approved by Montgomery County, Maryland.

Sec. 31. Final record plats--Specifications and supporting data.

(a) **Part of approved preliminary plan.**

A final plan may include only a portion of the approved preliminary plan; provided, that the public improvements to be constructed in the area covered by the plat shall be sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety and convenience of the present and future residents therein and for adequate access to contiguous areas, school and other public sites. Any proportional plat filed shall include dedication to the intersection of all roads abutting corner lots.

(b) **Specifications.**

The final subdivision record plat shall be clearly and legibly drawn in black India ink upon tracing cloth. The size of the sheets shall be eighteen inches by eighteen inches, including a margin of one-half inch outside ruled border lines. The record plat accompanying the application for approval shall contain the following graphic and descriptive items. The lack of information under any item specified herein or improper information supplied by the applicant may be cited by the Planning Commission as cause for disapproval of a record plat.

(c) **Application.**

Written application by the owner or his/her agent for approval shall accompany each record plat and contain the following information:

- (1) Name of subdivision (subject to approval by the Planning Commission) and description of blocks and lots included on plat.
- (2) Location of subdivision by county, election district and municipality.

- (3) Name, date of approval and file number of the preliminary plan upon which the record plat is based.
 - (4) Zoning classification of property.
 - (5) Total number of lots, outlots or parcels included on plat.
 - (6) Total area shown on plat, including private streets, driveways and rights-of-way, and total area dedicated to public use.
 - (7) Existing or proposed covenants, easements, maintenance and/or ingress-egress agreements, if any.
 - (8) Name and address, including telephone number, of owner or owners and registered land surveyor who prepared the plat.
 - (9) Such other information as the Planning Commission may require.
- (d) **Drawing.**

The plat of subdivision shall be accurately drawn to a scale approved by the Planning Commission and shall include the following information:

- (1) **Title.** The title shall appear in the lower right-hand corner of the sheet, and shall include the following information:
 - a. Approved name of the subdivision and section thereof.
 - b. Election district, town, county and state.
 - c. Scale of drawing and date of completion.
 - d. Name, seal and registration number of registered land surveyor who prepared the plat.
- (2) **Subdivision plan.** All boundaries, street lines, public or private, and lot lines, plus any other lines pertinent to the plan, shall be shown together with sufficient data, accurately calculated, to locate each line and property corner and to reproduce same upon the ground. The plan shall show the following items, as applicable in each case:
 - a. All property boundary lines necessary to identify the subdivision with the conveyance or part thereof by which the maker of the plat acquired the property. Where the subdivision is a part of such

conveyance, the boundaries shown should include the last complete line touched on by the subdivision or an indicated dimension thereof. Where a subdivision includes all or parts of two or more conveyances the boundaries of such separate deed descriptions shall be indicated by light lines running through the subdivision, together with deed reference to each original tract or parcel.

- b. Exact locations, widths and names of all streets, public or private, within the subdivision.
- c. All easements established or rights-of-way provided for public services or utilities in the subdivision, and any limitations of such easements, plus recordation reference.
- d. Accurate outlines of any areas to be reserved for common use by residents of the subdivision or for general public use, with the purposes indicated thereon.
- e. Accurate bearings and lengths of all block and lot lines, together with the length of radii, arcs, tangents and chords with chord bearings and central angles for all curves in the layout. A curve table shall be used containing these data and referenced to the curves shown in the drawing.
- f. All bearings shall refer to the true meridian or the Maryland State Plane Coordinate System. The meridian used shall be noted alongside the north arrow which is required on each plat. Plats of resubdivisions may refer to the "Plat Meridian," meaning that used on the original subdivision plat.
On plats of small subdivision, involving only one or two lots, in locations where no established control is available, reference to the "Deed Meridian" will be acceptable.
- g. The grid lines shall be shown around the borders of the plat with their coordinate values indicated thereon and the coordinates of the property line monuments shown on the plat shall be given.
- h. Accurate location of all monuments is required.
- i. Lots numbered in numerical order. In tracts for subdivisions containing more than one block, the blocks shall be lettered in alphabetical order. In case there is a resubdivision of lots in any block, such resubdivided lots shall be numbered numerically, beginning with number following the highest lot number in the block and the original lot lines shown dashed and original lot numbers dotted.
- j. Area of each lot, outlot, parcel or other unit shown on the plat.
- k. Front building lines, shown graphically with

dimensions, where such minimum building lines exceed the required minimum specified in the Zoning Ordinance, and any other building restriction lines which may apply in a particular case.

- l. Accurate bearings and lengths of tie connections between all adjacent blocks and other subdivisions.
- m. Names and locations of adjoining subdivisions with lot and block numbers immediately adjoining, together with plat references.
- n. Location and apparent ownership of adjoining unsubdivided property with land record or will references.
- o. Key map showing location of subdivision when same is in an outlying area not adjoining a recorded subdivision. In case of a large subdivision requiring multiple plats, the key map shall show the location of previously recorded plats within the subdivision by section number.

(3) **Surveyor or engineer certificate.** Certificate by the registered land surveyor or registered engineer in a form required by the Planning Commission, certifying to the accuracy of the plat, to the placing of property line monuments and to areas included on the plat and dedicated to public use.

(4) **Owner's certificate.** Certificate by the owner and all parties of interest, in a form approved by the Planning Commission, adopting the plan of subdivision, establishing slope easements and minimum building restriction lines and dedicating to public use, such areas, walks, utility and storm drainage rights-of-way, parks and other areas approved for dedication to public use by the Planning Commission.

(5) **Approval box.** Approval box in a form required by the Planning Commission shall be provided. The box shall provide approval space for The Commissioners of Barnesville and the Barnesville Planning Commission.

(e) **Storm drainage construction plan.** Prior to approval of a record plat, the subdivider shall furnish a storm drainage construction plan approved by the applicable office of the Montgomery County Government.

(g) **Other supporting data.** Copies of any covenants, restrictions or joint-use and maintenance agreements which the subdivider or developer may wish to record or required hereby to record with his/her subdivision or which are in

effect shall be submitted to the Planning Commission with the application for approval of the record plat, together with any other supporting plans or documents required pursuant to this ordinance and other applicable regulations.

Sec. 32. Same--Procedure for approval and recording.

(a) **Filing of plat with application and plat fee.**

(1) The subdivider or his/her agent shall file the subdivision final (record) plat and all required supporting data, as specified herein, with the Planning Commission, together with application for its approval, and at the same time shall pay the required plat fee as established from time to time by resolution of the Commissioners. Such fee shall not be more than the reasonable cost of processing and administration.

(2) The plat shall be deemed filed with the Planning Commission when it is filed with the Town Clerk; provided, that the Planning Commission shall have the authority to reject the plat within 30 days of its receipt if it finds that it does not conform to the approved preliminary plan, except for minor modifications, or with this ordinance and the specifications and procedures adopted pursuant thereto, and further provided that said rejection is in writing and specifies the respects in which the plat is deficient.

(3) The applicant may resubmit such a rejected plat at any time after ten days have elapsed following the Planning Commission rejection provided, that the Planning Commission may waive the ten-day period before resubmission of a plat whenever, in its opinion, such waiver is justified or if the plat in question has been revised to eliminate the cause of its rejection.

(b) **Plat to comply with approved preliminary plan.** No final (record) plat of subdivision shall be approved unless it complies with the preliminary plan as approved by the Planning Commission; except, that the Planning Commission may allow for minor modifications in the plan, which, in its opinion, do not alter the intent of its previous approval.

(c) **Approval or disapproval.** The Planning Commission shall approve or disapprove a final plat if all Subdivision Regulations have been complied with within 60 days after the submissions thereof to it; otherwise, such plats shall be deemed to have been approved and a certificate to that effect shall be issued by the

Planning Commission on demand. Provided, however, that the applicant for the Planning Commission's approval may waive this requirement and consent to an extension of such period.

(d) **Planning Commission may hold a hearing on any plan or plat.** The Planning Commission may, upon its own motion, hold a hearing prior to acting upon any record plat or preliminary subdivision plan, at such time and place and on such notice as the Planning Commission may designate. All interested parties shall be entitled to appear at any such hearing.

(e) **Signing and reproducing of plats.**

(1) All plats shall be signed by the Chairman of the Planning Commission as soon as the Planning Commission has acted to approve them, and by the President of The Commissioners of Barnesville as soon as the Commissioners have acted to approve them.

(2) Upon signature of a finally approved record plat by the Chairman of the Planning Commission and by the President of The Commissioners of Barnesville, processing of the plat shall be completed.

(3) The subdivider shall cause reproductions of each plat to be made, of a quality equal to the standard established by the County, and sufficient in number to meet current approved requests of local agencies, firms and individuals for such copies.

(4) The original tracing of each final plat and the reproductions thereof required by the Clerk of the Court shall have the official seal of the registered land surveyor who prepared the plat impressed thereon; likewise, if the maker of the plat is a corporation, its corporate seal shall also be affixed to such plat and to the reproductions for recordation.

(5) The original tracing of each plat so recorded shall be filed with the Planning Commission and shall remain there at all times. The reproductions required by the Clerk of the Court shall be transmitted by the subdivider to him/her promptly upon completion of processing, for recordation in the land records, together with the appropriate recording fee.

(f) **Completion or guarantee of public improvements prior to recording final plat.**

(1) Prior to the recording of any approved final plat or

portion thereof, the developer or subdivider shall present evidence to the Planning Commission that he/she has completed such arrangements, obtained such permits, bonds or provided such surety in accordance with applicable laws, regulations and requirements as will insure final proper completion and installation of all public improvements on the land covered by such plat or portion thereof to be recorded, including those in subsection (2) below as well.

(2) **Performance guarantees.**

Performance bond. In order to assure the construction and installation of roads, curbs, gutters, sidewalks, storm water lines, afforestation or reforestation, street lights, monuments and other public facilities as may be necessary by applicable law or proposed by the subdivider, the subdivider shall, prior to approval of a final plat, deliver to the Town, State or County, as the case may be, a performance bond or bonds issued by a surety company authorized to do business in the State of Maryland and satisfactory to The Commissioners of Barnesville in such amount as is estimated by the applicable government to be the total cost of the construction and installation of the required facilities including an additional amount to cover unforeseen contingencies. Said bond shall run to the Commissioners and/or Montgomery County and/or the State of Maryland, as appropriate, and be conditioned as may be required by each such government.

Sec. 33. Variations from requirements of ordinance.

(a) **Authority of commission.**

(1) **Hardship.** Where the land involved in a subdivision is of such size, shape or is subject to such title limitations of record or is affected by such topographical conditions that it is impossible or impractical or would cause singular and unnecessary hardship to conform fully to this ordinance, the Planning Commission may consider such variation from the provisions of this ordinance as may be reasonably necessary to grant relief; provided, that the variation shall not have the effect of nullifying the intent and purpose of the Master Plan and the public interest shall be protected. In such cases, it shall be the applicant's responsibility to provide sufficient data to justify the hardship exemption. The Planning Commission shall outline its reasons for accepting or rejecting the application in the public record. The Planning Commission is authorized, but not required, to hold a

public hearing on the application if it desires.

- (b) **Procedure for granting variations.**
- (1) **Written request to the commission.** A request for a variation from this ordinance shall be addressed to the Planning Commission in writing, stating all facts warranting variation.
 - (2) **Referral for recommendations.** The Planning Commission shall refer a copy of each request to the Montgomery County Department of Transportation and the State Highway Administration and Montgomery County Health Department for investigation, report and written recommendation before acting upon such a request. Such report and recommendation shall be submitted to the Planning Commission within thirty days after receipt of notice by that Agency; otherwise the recommendation shall be presumed to be favorable. A request for a variation, filed pursuant to this section, shall constitute a waiver of the time requirements set forth in this ordinance and shall extend time permitted for such review for a period of 60 days.
 - (3) **Resolution.** The decision of the Planning Commission shall be in the form of a resolution adopted by the Planning Commission by a majority of those voting; and a copy of said resolution shall be forwarded to each agency mentioned in paragraph (2) above.
 - (4) **Conditions.** In granting a variation, the Planning Commission may require such additional conditions in lieu of full compliance as it deems appropriate under the circumstances of any give case.

Legislative History:

Originally Enacted by Ordinance No. 2004-01, Effective January 19, 2004

Amended by Ordinance No. 2006-03, Effective May 15, 2006.

THIS IS A TRUE TEST COPY OF THE SUBDIVISION ORDINANCE OF THE COMMISSIONERS OF BARNESVILLE, MARYLAND

ATTEST:

_____/S/_____
PATRICIA MENKE, CLERK

_____/S/_____
PETER MENKE, PRESIDENT