

## Article 31. Subdivision

- 31-1 AUTHORITY AND PURPOSE
- 31-2 APPLICATION
- 31-3 TRANSFER OF LOTS AND ISSUANCE OF BUILDING PERMITS
- 31-4 SUBDIVISION TYPES AND GROWTH TIERS
- 31-5 EXCEPTION LOTS AND FAMILY CONVEYANCE LOTS
- 31-6 SUBDIVISION REQUIREMENTS
- 31-7 SUBDIVISION REVIEW PROCEDURES
- 31-8 AMENITIES AND IMPROVEMENTS
- 31-9 ADMINISTRATIVE AND AMENDED PLATS
- 31-10 REVIEW AND APPEAL

### 31-1 AUTHORITY AND PURPOSE

**A.** Under the authority of the Land Use Article of the Maryland Annotated Code, the following regulations governing the subdivision of land are hereby established for all areas of Calvert County except those within Incorporated Towns of the County.

**B.** The purpose of these regulations is to regulate and control the development of land within Calvert County, in order to promote the public health, safety and general welfare, and to assure sites suitable for building purposes and human habitation in a harmonious environment.

### 31-2 APPLICATION

#### **A. Application and Exemptions**

These regulations apply to all new subdivisions and to extensions and revisions of recorded subdivisions, except for:

1. The division of land for purposes other than building development including but not limited to agricultural land preservation.
2. That portion of a divided tract which is not to be used for the purpose of building development.
3. Subdivision of land by court order.
4. Conveyance to a governmental or quasi-governmental agency for public use.

### 31-3 TRANSFER OF LOTS AND ISSUANCE OF BUILDING PERMITS

**A.** No lot or parcel in a subdivision subject to these regulations shall be transferred until:

1. Plat recording has been completed as per Section 31-6.D.5 below.
2. A public works agreement or a private public works agreement for the road improvements has been executed, if required.
3. A bond or other suitable surety is posted to warrant all required amenities and improvements.
  - a. If requirements are bonded in whole or in part with Department of Public Works, the platted roads, sidewalks, and amenities (as required by final plat or preliminary approval letter) have been completed, or the base road construction has been completed and appropriate bond or acceptable guarantee has been provided and accepted by the Board of County Commissioners for completion of roads, sidewalks, and amenities in the subdivision or that section of the subdivision in which the lot or parcel is located.
  - b. If requirements are bonded with the Department of Planning & Zoning in whole or in part the amount of the bond or guarantee shall be 125% of the estimated cost of completing construction with a nonrefundable Administration Fee.

**B.** No building permit shall be issued until the base road has been completed and inspected by the County Engineer or, in lieu of this, an appropriate bond has been submitted to the County Engineer as per the Calvert County Road Ordinance (Chapter 104 of the Code of Calvert County).

**C.** No building permit shall be issued until an appropriate bond or acceptable guarantee has been provided and accepted by the County for completion of sidewalks, lighting, recreational facilities, landscaping, and other amenities in the subdivision or that section of the subdivision in which the lot is located.

**D.** No building permit will be issued for the use of any lot, or portion of a lot, transferred or conveyed in violation of this Ordinance.

#### **31-4 SUBDIVISION TYPES AND GROWTH TIERS**

##### **A. Minor Subdivisions**

Minor subdivisions include the following:

1. When the total number of residential lots or other divisions of land are derived from a parcel of record is seven or less as of October 1, 2012.
2. Any division of land for development purposes that does not require the creation of any new right-of-way, other than a private lane and family conveyance easement or right-of-way.

##### **B. Major Subdivisions**

Major subdivisions include the following:

1. When the total number of new residential lots or other divisions of land are derived from a parcel of record is eight or more as of October 1, 2012.
2. Any division of non-residential land for development purposes.
3. The creation of any new public rights-of-way.

##### **C. Growth Tiers**

The Sustainable Growth and Agricultural Preservation Act of 2012 requires counties to create four tiers of land use categories to identify where major and minor residential subdivisions may be located in a jurisdiction and what type of sewerage system will serve them. The Board of County Commissioners adopted the Growth Tier Map on April 25, 2017. Tier I areas are currently served by sewerage systems. Tier II areas are planned to be served by sewerage systems. Tier III areas are not planned to be served by sewerage systems. Tier IV areas are planned for preservation and conservation and prohibit residential major subdivisions. The following apply to residential subdivisions and do not apply to commercial, industrial, or other nonresidential subdivisions.

1. Major subdivisions on individual on-site septic systems shall not be permitted anywhere except in a Tier III area. All proposed major subdivisions within Tier III areas shall only be approved if the Planning Commission has reviewed and approved the subdivision. The Planning Commission's review of a major subdivision in a Tier III area shall include consideration of the cost of providing local government services to the subdivision as well as potential environmental issues and the impact to natural resources caused by the subdivision. In addition, the Planning Commission shall hold at least one public hearing.
2. In a Tier IV area, only minor subdivisions shall be permitted.

#### **31-5 EXCEPTION LOTS AND FAMILY CONVEYANCE LOTS**

Exception lots and family conveyance lots are bonus lots which may be permitted through subdivision in accordance with the provisions of this Ordinance.

##### **A. Exception Lots**

Exception lots are enabled by the Ordinance for parcels of record on or before October 21, 1974. Exception lots are permitted in accordance with this Section in the FFD, RCD, and RND.

1. Parcels still eligible for the creation of exception lots must obtain preliminary approval for those exception lots within two years of the adoption of this Ordinance. Two years after the effective date of this Ordinance, the ability to create exception lots is null and void.
2. The amount of exception lots that can be created is calculated as follows:
  - a. A maximum of five exception lots may be created on a parcel of record as of October 21, 1974.
  - b. For parcels of record as of June 29, 1967, three of the five lots shall be no less than one acre in size and two of the lots shall be no less than three acres in size. If the parcel was recorded on or after June 29, 1967 and as of October 21, 1974, all five exception lots shall be no less than three acres in size.
  - c. Any lots created from the parcel after June 29, 1967 that are between 1 acre and 2.999 acres will count as a 1 acre exception lot and shall be deducted before determining the number of exception lots that can still be created.
  - d. Any lots created from the parcel after June 29, 1967 that are between 3 and 4.999 acres will count as a 3 acre exception lot and shall be deducted before determining the number of exception lots that can still be created.
  - e. To determine the total number of acres in exception lots that can still be created, multiply the number of one-acre exception lots that have not been previously created by one and multiply the number of three-acre exception lots that have not been previously created by three and add together.
  - f. Subtract the number of acres in exception lots that can still be created from the remaining gross tract acreage of the parcel of record and divide by 5.0.
  - g. To this total, add the number of exception lots that can still be created and divide by 4.0.
  - h. If the product includes a decimal of 0.5 or more, round up. If the product includes a decimal of less than 0.5, round down.
3. If there are questions about eligibility for exception lots, the burden of proof is on the applicant. Decisions concerning eligibility are to be made by the Zoning Officer and may be appealed to the Board of Appeals with the decisions based on the provisions below.
4. A title history is required to verify the number of exception lots that have been previously created and the number of exception lots that may still be created. No more than one set of exception lots shall be granted per parcel for any deed recorded as of October 21, 1974.
5. If the original property has been subdivided and the owner of record as of June 29, 1967 retains a portion of the property, that owner may designate which parcel is eligible for the one-acre lots, unless the right has already been legally conveyed by deed.
6. If there are questions concerning eligibility for one acre lots, the burden of proof is on the applicant. A title search may be required. Decisions concerning eligibility for one acre lots are to be made by the Zoning Officer and may be appealed to the Board of Appeals with the decision based on the above provisions. No more than one set of exception lots shall be granted for any parcel described in a deed recorded as of June 29, 1967.
7. Only one set of exception lots shall be granted to the parcel of record regardless of the number of property owners.

## **B. Family Conveyance Lots**

A family conveyance lot may only be created for family members, provided that the conditions of this Section are met. Family Conveyance lots are permitted in the FFD, RCD, RND, and RD. Family conveyance lots with access from a public road or a private lane constructed to Department of Public Works standards may be created from any parcel of record as of November 2, 1999. Family conveyance lots with access from a private road may be created from any parcel of record as of April 22, 1980 provided the conditions of Section 31-6.I below are met in addition to the conditions of this Section.

1. After the adoption of this Ordinance, the number of family conveyance lots that can be created is limited to one lot per parcel of record. If the parcel of record has already platted family conveyance lots permitted under past Ordinances, no additional family conveyance lots are permitted.
2. The creation of a family conveyance lot requires the purchase of five Transferable Development Rights.
3. Any lot created as a family conveyance lot may only be conveyed to a family member of the grantor being a spouse, parent, child, grandchild, grandparent, sibling, or the child of a sibling, or where the parcel is undeveloped, the grantor may create a family conveyance lot for oneself, subject to the following:
  - a. Only one set of family conveyance rights may be derived from any parcel of record, regardless of whether the parcel is held by Tenants in Common or Joint Tenants.
  - b. A notarized Family Conveyance Affidavit shall be executed by the owner creating the family conveyance lot affirming that the designated grantee is an eligible family member as defined above and has not received any other lots from the parcel of record. The affidavit shall be submitted with the preliminary plan application. The family conveyance lot shall be identified as such on the final plat and the affidavit shall also be shown on the final plat and signed by the grantor.
  - c. Legal documentation affirming the owner's relationship to the grantee (other than self) shall be submitted to the Department of Planning & Zoning as part of the preliminary plan application. Acceptable forms of documentation include: birth, death, and/or marriage certificates, or other valid government issued identification.
4. A family conveyance lot created under this section shall comply with the regulations set forth in the Zoning Ordinance in effect at the time the family conveyance lot was created and shall be noted on the plat.
5. The right to create family conveyance lots from a parcel of record, remains with the land regardless of ownership.
  - a. In cases where the parcel of record has been further subdivided, any unused family conveyance rights remain with the parcel of record's residue.
  - b. An owner of the parcel of record, or its residue, may assign unused family conveyance rights by deed, but only to another property that was derived from the parcel of record, or its residue.
  - c. A Certificate of Title may be required to verify a parcel's eligibility to create family conveyance lots, or the number of family conveyance rights remaining with any property claiming such rights.
  - d. In no case may more than one set of family conveyance rights be granted from any parcel of record, regardless of the number of property owners on the deed or the number of lots and parcels created from the parcel of record.
6. If there is a question regarding the eligibility of a parcel to create family conveyance lots, the burden of proof is on the property owner. Decisions concerning eligibility are to be made by the Zoning Officer and final decisions of the Zoning Officer may be appealed to the Board of Appeals.
7. Subsequent to the creation of a family conveyance lot by a recorded plat under this Article, the lot is subject to the following provisions:
  - a. The grantor shall transfer ownership of the lot to the assigned grantee listed in the family conveyance affidavit on the recorded final plat by deed, before any further transfer of the lot can take place.
  - b. The assigned grantee may not subsequently transfer the family conveyance lot to any other person or entity for a minimum period of seven years from the recording date of the deed transferring ownership from the grantor to the grantee, except as provided under item 8 below, unless, five Transfer Development Rights (TDRs) are applied to the lot (in addition to the five TDRs that were required to create the family conveyance lot) and the final plat is revised to redesignate the lot as a non-family conveyance prior to deed transfer.
  - c. A grantee may within the first seven years of ownership, transfer a family conveyance lot to another eligible family member as defined above, provided that the family conveyance affidavit on the final plat is revised to reflect the newly assigned grantee prior to transfer. The newly assigned grantee must also

complete the seven year ownership requirement of the first grantee (the seven year ownership requirement does not start over following the transfer to the newly assigned grantee) or meet the requirements of item b above, prior to transfer of the family conveyance lot.

d. This section does not prevent the transfer of a family conveyance lot to a third party as security for a mortgage or deed of trust. A family conveyance lot that shall be transferred or sold as a result of foreclosure by a financial institution or court order is exempt from items b and c above.

e. No residential building permits may be issued for a family conveyance lot that does not first meet the requirements of this section.

8. The use of family conveyance lots created under this section is restricted to single-family detached dwellings, except that agricultural, agritourism, ecotourism and heritage tourism uses on such lots may be permitted subject to the requirements of this Ordinance, the Calvert County Road and Site Development Ordinance and the Calvert County Construction Standards for Roads, Streets and Incidental Structures, as amended from time to time, or as otherwise approved by the Department of Public Works.

9. If located in the Critical Area, the requirements of Section 22-4.I of this Ordinance shall be met.

## **31-6 SUBDIVISION REQUIREMENTS**

### **A. General**

The standards and requirements outlined herein shall be considered the minimum for the promotion of the public health, safety, and general welfare.

### **B. Standards**

1. The subdivision shall meet the goals, objectives and guidelines of the State of Maryland, the local Comprehensive Plan, any applicable Master Plans, and county zoning regulations.
2. In laying out a subdivision, the requirements of this Ordinance, the Maryland State Department of Health, the County Water and Sewerage Plan, and other applicable regulations shall be met.
3. Where there is a discrepancy between minimum standards or dimensions noted herein and other official regulations, the more restrictive standard shall apply.
4. Where trees, groves, waterways, scenic points, or other officially designated County assets and landmarks are located within a proposed subdivision, all practical means shall be taken to preserve these features and include them within any required open space.

### **C. Site Development and Design**

Site development and design standards are required as per Article 25.

### **D. Subdivision Control of Unsuitable Land**

1. The Planning Commission may find land unsuitable for subdivision or development due to features which will adversely affect the safety, health and general welfare of the present and future inhabitants of the subdivision and/or its surrounding areas. Those features may include (but are not limited to) those areas described as Forest Retention Areas (Article 20), Natural Resources Protection Areas (Article 21), and Critical Area Buffers (Article 22). The Planning Commission or its designee may disapprove of the creation of lots if it finds the land unsuitable for subdivision or development due to features described in this section.
2. Each single-family detached lot shall contain sufficient contiguous land for the construction of a building or dwelling with amenities within the required setbacks of this Ordinance. Minimum sufficient contiguous suitable land area shall be exclusive of Natural Resource Protection Areas, Critical Area Buffers, Forest Retention Areas, septic recovery areas, and required setbacks. Minimum sufficient suitable land area shall be 20,000 square feet for single-family detached lots having individual septic systems and 10,000 square feet for single-family detached lots served by a public sewer or a community septic system. All proposed single-family detached lots below this minimum shall be considered having marginal amounts of suitable land for building purposes and may be required to provide detailed plot plans to prove suitability.

3. All Natural Resource Protection Areas, Critical Area Buffers, Forest Retention Areas, and all lots which have marginal amounts of suitable land for building purposes as described in item 2 above, shall be so noted on the recorded final plat.
4. The Planning Commission may require a plot plan for review and approval prior to approval of the final plat. The plot plan shall show the location of the house footprint, amenities footprint (such as deck, swimming pool, etc.), driveway, well and septic, all required setbacks, Natural Resource Protection Areas, Critical Area Buffers, Forest Retention Areas, required grading easements, as well as any other existing or proposed constraints to site development.
5. Development of designated floodplains shall be restricted to the uses specified in Article 24 of this Ordinance and in accordance with erosion and sediment control plans approved by the Calvert Soil Conservation District. In addition, a minimum ten-foot setback shall be established adjacent to 100-year Floodplain areas.

#### **E. Roads, General**

1. The arrangement, character, extent, and location of all roads shall conform to the provisions of the Transportation Element of the County Comprehensive Plan, the Transportation Plan and any other applicable county plan and shall be considered in their relation to the existing and planned roads, to topographical conditions, to public convenience and safety, and in their appropriate location to the proposed uses of the land to be served by such roads.
2. Proposed roads intersecting a State Road shall be approved for location and grade by the State Highway Administration prior to the final plat.
3. Where a proposed road or expansion of a road is not identified within an adopted Comprehensive or Master Plan, it shall be in alignment and connect with existing, planned, or platted roads.
4. The intended type and disposition of all proposed rights-of-way shall be shown on the preliminary plan and final plat of subdivision.
5. If a portion of a tract or an adjacent tract is not subdivided, the subdivision shall provide adequate access by a reserved platted future right-of-way with temporary construction easements and amenities easements for future road extension. The right-of-way for public or private road construction shall extend to the unsubdivided tract. Upon development of the unsubdivided tract, the developer of that tract shall be responsible to build the road connection. Temporary easements for turnarounds shall be provided at the boundary lines.
6. Right-of-way widths for proposed public and private subdivision roads shall be determined by the Calvert County Road and Site Development Ordinance and Construction Standards currently in effect at time of project development.
7. The Planning Commission or its designee may require the incorporation of traffic-calming devices into proposed or existing roads within the subdivision as a means to reduce speed and increase safety. The traffic-calming devices shall be shown on road plans and submitted to the Department of Public Works for review and approval prior to approval of the final plats.
8. When a new road right-of-way is proposed within an existing subdivision recorded after June 29, 1967 that will access a new subdivision, the following criteria shall be met prior to approval by the Planning Commission:
  - a. A public hearing shall be held according to the County established criteria.
  - b. The applicant shall demonstrate, and the Planning Commission shall find that:
    - i. The new right-of-way is in compliance with all applicable adopted Comprehensive Plans, Master Plans, Transportation Plans, and Ordinances.
    - ii. The new right-of-way will not be detrimental to the use and enjoyment of property owners in the existing subdivision.
    - iii. The new right-of-way will not be detrimental to the health, safety, or general welfare of the residents thereof.

c. The provisions of this section do not apply to new rights-of-way proposed and/or built by Calvert County and/or the Maryland State Highway Administration.

d. The provisions of this section do not apply to rights-of way previously reserved, platted, or recorded within the existing subdivision.

9. Road standards: Roads and intersections shall be designed, constructed, and maintained in accordance with the Calvert County Road and Site Development Ordinance and Construction Standards currently in effect at time of project development.

#### **F. Subdivision Names, Road Names, and Premise Addresses**

The purpose of these regulations is to establish a system for the uniform assignment of road names and numbering of premises in Calvert County, thereby assisting in the efficient and effective provision of emergency services. These regulations are based on the statutory authority contained in Article 66B, Code of Public General Laws of Maryland, May 1971, as amended. Refer to Chapter 95 Public Safety of the Calvert County Code for regulations regarding assignment of premise addresses. Subdivision names and road names shall be submitted as part of the Preliminary Plan process for review and approved by the Planning Commission or its designee to ensure no confusing duplication within the County.

1. The Planning Commission shall assign or approve all names of existing or proposed rights-of-way except within the limits of incorporated Towns of the County. The Planning Commission may designate the authority to assign or approve names of private roads and RD14A roads to its secretary.

2. Owners or developers of land to be dedicated for new public rights-of-way may name the proposed roads in accordance with the provisions of this Section.

3. Owners of land fronting on an existing unnamed right-of-way may petition for naming of that road in accordance with Section 31-6.F.5 below. Such requests may be denied by the Planning Commission if it is determined that the proposed road name conflicts with any requirement of this Section.

4. Selection of Road Names. To avoid duplicating road names and to affect a uniform system of naming roads, the following principles of road name assignment procedures shall be followed:

a. An extension of an existing right-of-way shall bear the same name as the existing right-of-way.

b. The name assigned to a proposed right-of-way shall be the same name as that assigned to the right-of-way directly opposite it on an intersecting road unless the proposed right-of-way runs in a different direction. (See paragraphs '8' and '9' of this Section for exceptions.)

c. Any road name assigned by the Planning Commission to an existing or proposed right-of-way shall not be a duplicate name, either in sound or spelling, of any road name already existing in the County.

d. Road names selected by owners of premises fronting on existing or proposed rights-of-way must be approved by the Planning Commission to avoid duplicating road names. Proposed road names may be submitted to the Planning Commission by one of the following methods:

i. A petition signed by more than 75 percent of those owning property on the road; or

ii. Selected names shown on a Road Name Request Form submitted with a preliminary subdivision plat.

e. A one-intersection circular road shall bear one name.

f. To maintain the hundred-block continuity within the Grid Address Numbering System, a circular road with more than one intersection may be designated "north" and "south" or "east" and "west" when its distance will encompass two or more hundred blocks. *Examples: "Drafter Circle-West" and "Drafter Circle-East"; or "Park Turn-North" and "Part Turn-South".*

**g.** Rights-of-way entering or leaving the County from either Anne Arundel County or the incorporated towns shall bear the same name.

**h.** Whenever an arterial road or historic right-of-way crosses the zero-grid hundred block (e.g., Solomons Island Road) within the Grid Address Numbering System, "north", "south", "east", or "west" may be designated as suffixes as it crosses the intersecting zero-grid right-of-way in order to distinguish between the same hundred block number on the arterial road or historic right-of-way.

**i.** Whenever local or collector roads cross the zero-grid hundred block within the Grid Address Numbering System, they shall bear different names when they cross the zero-grid hundred block intersecting rights-of-way to avoid duplicating blocks on the same named right-of-way.

**j.** When a choice is to be made between selection of "Avenue" versus "Street" as a suffix to a right-of-way, the following principles shall apply: rights-of-way going in a north-south direction may be called "Avenues"; rights-of-way going in an east-west direction may be called "Streets".

**k.** Project road names may be applied to non-dedicated private rights-of-way through apartment, commercial, industrial, or manufactured home complexes whenever the quantity of structures to be erected therein will duplicate existing or projected hundred blocks within the Grid Address Numbering System.

**l.** A right-of-way may be named after a family residing on the right-of-way if 75 percent of the owners along the right-of-way approve the proposed name.

**m.** Names selected for rights-of-way shall not exceed 12 letters and spaces, in order to maintain uniformity of County street signs.

#### **5. Road Name Changes.**

**a.** The name of any existing dedicated right-of-way in Calvert County may be changed by the Planning Commission upon the request of 75 percent of the owners of property fronting thereon at any time.

**b.** The persons seeking the change shall submit a request to the Planning Commission which shall be signed by more than 75 percent of the owners.

**c.** The petition shall include the legal description of all properties having frontage on the right-of-way and the current mailing address of each signer, and the proposed new name of the right-of-way.

**d.** The Planning Commission shall convene a public hearing on the request and shall give notice of the hearing by publication of the place, date and time of the hearing in a newspaper of general circulation in Calvert County at least once a week for two weeks before the hearing. Notice of the public hearing shall also be sent by U.S. Mail, First Class, Postage Prepaid to all property owners having frontage on the right-of-way.

#### **6. Principles of Road Naming.** To eliminate unacceptable duplication of road names and to affect a uniform system of changing road names, the Planning Commission shall adhere to the following principles of road renaming procedures:

**a.** Whenever a dedicated, existing named right-of-way is relocated, the by-passed portion or portions shall be either renamed or the prefix, "old" added before the surname. However, if it is more practical and logical, the relocated portion or portions shall be renamed to avoid the necessity of changes for residents fronting on the by-passed portion or portions of the existing right-of-way, especially if they have previously had their address numbers changed and brought into the Grid Address Numbering System.

**b.** Existing numbered roads which do not conform to the Grid Address Numbering System hundred blocks shall be renamed when the hundred block on an intersecting right-of-way does not coincide with the numbered road.

#### **7. Public utility companies and interested Federal, State and County agencies shall be advised of road name changes. At a minimum, the Department of Planning & Zoning shall notify the following agencies; Department of Planning & Zoning Premise Addressing staff (who shall in turn notify all property owners along the affected road); Calvert County Control Center; Calvert County Department of Public Safety, Fire/Rescue/EMS Division; Calvert**



County Public Schools; Calvert County Board of Elections; Calvert County Department of Public Works (Engineering Bureau and Highway Maintenance Division); Calvert County Department of General Services; Maryland State Highway Administration; Maryland Department of Assessments & Taxation; Local Post Office; Local Electric Company; Local Phone Company; Local Cable Company.

#### **G. Road Frontage and Lots**

1. All lots shall maintain a minimum 25 linear feet of frontage on an approved public road or private lane right-of-way unless otherwise specified in this Article or Section 25-2.B.2. Family conveyance lots are exempt from these requirements.
2. In general, side lot lines shall be at right angles or radial to the road line.
3. All widening strips, defined as the area between the front lot line and either the existing road right-of-way line, or tract line within the road right-of-way, shall be dedicated to the Board of County Commissioners of Calvert County in the form of a deed delivered and recorded prior to or simultaneous with recording the plat.
4. For State roads, the front setback shall be the more restrictive between the setback established in this Ordinance and any front setback established in adopted State Highway Administration plans.

#### **H. Streetscape and Amenities**

The Planning Commission or its designee shall require sidewalks and may require other streetscape amenities (i.e. lighting, street trees, landscaping) in a subdivision created in any district. Streetscapes and streetscape amenities shall be designed, constructed, and maintained in accordance with the Calvert County Road and Site Development Ordinance and Construction Standards.

1. The site circulation standards for residential and nonresidential development in Section 25-1 of this Ordinance shall apply.
2. Street landscaping is required in accordance with Section 28-9 of this Ordinance.
3. All street lighting shall comply with Article 26 of this Ordinance.

#### **I. Approvals of Family Conveyance of Lots Served by Private Roads**

The Planning Commission or its designee, may approve family conveyance subdivisions of land with access from a private road provided the requirements of Section 31-5.B above and the following are met:

1. Family conveyance lots with access from a private road may be created under this section from any parcel of record as of April 22, 1980.
2. Except as provided in this section, the maximum number of lots and/or buildable parcels served by the private road shall not exceed ten, including the proposed lot. The private road shall meet the Family Conveyance Road Standards set forth in the Calvert County Road and Site Development Ordinance. The number of lots and/or buildable parcels served by the private road shall be determined by the Department of Public Works.
3. The proposed road access shall be private, non-county owned and maintained and shall not be eligible for acceptance into the County road system for County ownership or for County maintenance. A notation of such restrictions shall be placed on the plat and signed by the property owners. The owners of the family conveyance lot shall be responsible for providing for road construction. Road maintenance, including snow removal and repairs and other improvements, as well as road services normally provided by the County, shall be the responsibility of all lot owners accessing the private road. If there is a desire to make the existing private road subject to the family conveyance easement into a County road, it shall be upgraded to County Road Standards as set forth in the Road and Site Development Ordinance (Chapter 104 of the Code of Calvert County) and this Article, in effect at the time of said upgrading. The cost of design, construction and bonding for any upgrades shall be borne by the lot owners abutting such roadway prior to acceptance by the County. If upgraded to County (non-private) road standards, such upgrading shall be for the entire limit of the road to the nearest County or State road.
4. A Family Conveyance Easement or Right-of-Way shall be provided from the family conveyance lot to a State or County road for access purposes for all lots created under this section.

- a. A Family Conveyance Easement or Right-of-Way shall be provided to a minimum 30 foot width, or as otherwise approved by the Department of Public Works and shall be shown and noted on the final plat. The deed for the Family Conveyance Easement or Right-of-Way shall be made to the benefit of the lot owners and shall be submitted for recordation with the final plat.
  - b. A maintenance agreement for the Family Conveyance Easement or Right-of-Way shall be submitted for recordation with the final plat; unless, waived or otherwise required by the Department of Public Works.
5. Construction standards and requirements within the Family Conveyance Easement or Right-of-Way shall comply with the Calvert County Road and Site Development Ordinance and the Calvert County Construction Standards for Roads, Streets and Incidental Structures as amended from time to time, or as otherwise approved by the Department of Public Works.
  6. Private roads serving family conveyance lots shall be named. The road name shall be approved by the Calvert County Planning Commission or its designee, in accordance with Section 31-6.F above. The road name shall be posted by the lot owner(s) at their own expense, as specified by the Calvert County Road and Site Development Ordinance and Calvert County Construction Standards for Roads, Streets, and Incidental Structures.
  7. Unless a traffic hazard exists or the additional lots will create a traffic hazard, or unless the topography is such as to require drainage easements or other surface treatment requirements, no additional road improvements will be required as part of the subdivision approval.

**J. Approvals of Private Roads for Nonresidential Subdivisions**

Privately-owned roads in non-residential subdivisions may be approved in lieu of a private lane or a public road and shall meet the following conditions:

1. The proposed privately-owned road shall be private, non-County owned and maintained and shall not be eligible for acceptance into the County road system for County ownership or for County maintenance. A notation of such restriction shall be placed on the plat and signed by the property owners. The right of ingress and egress extends to all lots created. The lot owners, property owner's association, or merchants association shall be responsible for providing for road construction and maintenance including snow removal and repairs as well as other improvements and road services normally provided by the County.
2. If there is a desire to make this right-of-way a County road, it shall be upgraded to County Road Standards as set forth in the Road and Site Development Ordinance (Chapter 104 of the Code of Calvert County) and this Article in effect at the time of said upgrading. The cost of design, construction and bonding shall be borne by the lot owners abutting the road prior to acceptance by the County. If upgraded to County standards, such upgrading shall be for the entire limit of the road to the nearest County or State road. Planning Commission approval is required for the road to be conveyed to the County.
3. The road shall be named in accordance with Section 31-6.F above.
4. After approval of the subdivision, the final plat for the new lot shall show that the road will be private and the County will not maintain the road, nor assume any responsibility for future up-grading to County specifications if the road is to become public.
5. No lot or parcel in a subdivision subject to these regulations shall be transferred until a plat recording has been completed per the subdivision regulations, a public works agreement for the road improvements has been executed, and the base course of the platted roads has been completed by the permittee and approved by the Director of Public Works or its designee.

**K. Approval of Private Lanes in Single-Family Residential Communities (Non-Family Conveyance Subdivisions)**

Private lanes in single-family detached residential communities may be approved in lieu of a public road and shall meet the following conditions:

1. The proposed private lane shall serve no more than seven lots, including developed lots or parcels or those parcels eligible to obtain a building permit.
2. The use of such lots shall be restricted to single-family detached dwellings.

3. The proposed private lane shall be private, non-County owned and maintained and shall not be eligible for acceptance into the County road system for County ownership or for County maintenance. A notation of such restriction shall be placed on the plat and signed by the property owners. The developer shall be responsible for providing for road construction. Road maintenance, including snow removal and repairs and other improvements, as well as road services normally provided by the County, shall be the responsibility of all lot owners accessing the private lane. The cost of the design, construction and bonding shall be borne by the developer.
4. If there is a desire to make the private lane a County road, it shall be upgraded to County Road Standards as set forth in the Road and Site Development Ordinance (Chapter 104 of the Code of Calvert County) and this Article, in effect at the time of said upgrading. The cost of design, construction, and bonding for any upgrades shall be borne by the lot owners abutting such roadway prior to acceptance by the County. Planning Commission approval is required for the road to be conveyed to the County.
5. The lot owners served by the private lane shall be deeded an undivided ownership interest in the private lane.
6. No lot or parcel in a subdivision subject to these regulations shall be transferred until a plat recording has been completed per the subdivision regulations, a public works agreement for the road improvements has been executed, and the base road approval of the platted roads has been completed by the permittee and approved by Project Management and Inspections.

#### **L. Water and Sewer Systems**

1. Prior to submittal of the preliminary subdivision application, any proposed subdivision to be served by a water and sewer system shall be in the correct water and sewer allocation category for the type of system intended to serve the development.
2. Adequate capacity of the existing water and/or sewer system with required improvements if necessary, to adequately serve the proposed subdivision shall be determined by the applicable government agency and certified on the final plat, prior to approval by the Planning Commission or its designee.
3. All existing and/or proposed water and sewer infrastructure and easements required for site development shall be shown on the submitted preliminary plan. Any land intended to be conveyed to the County for the provision of public water and/or sewer infrastructure shall also be shown on the preliminary plan.
4. Water and sewer construction plans shall be submitted to the Department of Public Works for review and approval prior to approval of the final subdivision plats.
5. Deeds for any required land and/or easements required as part of the water and sewer plan approval shall be provided with the final plat for recording by the Department of Planning & Zoning.
6. Water and sewer systems shall be constructed in accordance with the Calvert County Standard Details of Water and Sewer Systems as amended from time to time. A Public Works Agreement for the required water and sewer system shall be executed prior to the issuance of any grading or building permits.
7. No subdivision plat shall receive final approval unless the applicant demonstrates that Section 9-512 of the Environmental Article of the Annotated Code of Maryland has been met.

#### **M. Additional Requirements of Nonresidential Subdivisions**

1. Subdivisions which are nonresidential in nature, such as commercial, industrial, and institutional developments shall conform to the standards in this Ordinance.
2. The developer shall demonstrate to the satisfaction of the Planning Commission that the road, parcel, and block pattern is specifically adapted to the uses anticipated and takes into account existing and proposed uses in the vicinity.
3. Alleyways with a minimum width of 30 feet may be required at the rear of all lots designated for commercial or industrial use to provide access for service and delivery and emergency vehicles.

4. Nonresidential parcels that were created by deed after the adoption of the Subdivision Regulations (April 4, 1972) shall obtain subdivision approval from the Planning Commission and be recorded prior to the issuance of any building permits for site development.

#### **N. Residues and Outlots Resulting from Subdivision**

1. If there is a remainder of land after subdivision and the creation of lots and/or open space, it shall be labeled as either residue or as an outlot on the subdivision plat.

a. Residue is not evaluated during the subdivision process for further building or development purposes. The designation of a property as residue shall not be construed as a guarantee that the future subdivision of the residue will be approved. Subdivision of the residue shall be subject to the regulations in effect at the time it is subdivided. A note to this effect shall be included on the final plat prior to recordation.

b. An outlot is a unit of land designated on a plat that does not meet the subdivision requirements as a buildable lot due to size, access, topography, or other restraints but may be used for public and community facilities (e.g., public utility lines and accessory structures, stormwater management facilities, wastewater and water supply treatment facilities, etc.). A note to this effect shall be included on the plat prior to recordation.

2. For subdivision plats recorded prior to the adoption of this ordinance, the designation of a property as a residue shall not be construed as a guarantee that the future subdivision of the residue will be approved. Subdivision of the residue shall be subject to the regulations in effect at the time it is subdivided.

3. If the residue is in some form of permanent land preservation (Agricultural Preservation Districts, Maryland Agricultural Land Preservation Foundation properties, or non-profit trusts), owned by non-profit organizations or trusts for conservation or institutional purposes (i.e., a parsonage, for a Place of Worship), or farms whose lots are created for a family-conveyance purpose only, the applicant may request a waiver from certain checklist information required by Section 31-7 below for that residue, as determined by the Department of Planning & Zoning.

#### **31-7 SUBDIVISION REVIEW PROCEDURES**

There are three steps in the subdivision review process: concept plan review; preliminary plan review; and final plat review and recordation. Fees for the submission of subdivision plans including concept, preliminary, final plat, administrative plats, and/or any revisions shall be set forth by the Board of County Commissioners by resolution.

##### **A. Subdivision Plan Procedures - General**

The following procedures apply to concept plan, preliminary plan, and final plat reviews.

1. The Director of Planning & Zoning shall establish appropriate procedures and forms (electronic and/or paper form) necessary to ensure adequate review and processing of subdivision applications and plans in a timely manner (including a submittal timeframe) consistent with these Regulations. A checklist shall be established for each step in the process which shows all information required for each submittal. The checklists shall be made available by the Department of Planning & Zoning. Procedures (other than those specified by these regulations) shall be approved by the Planning Commission. Review fees shall be set by the Board of County Commissioners.

2. All required filing fees shall be included with each submittal (see Planning & Zoning Fee Schedule). Submittal packages which are missing the required fees shall be returned and the applicant shall be required to resubmit. If an application is submitted by any County agency, organization, board, or commission then fee requirements are waived.

3. Upon receipt of an application or plan, if it is not complete, the applicant will be notified and has 48 hours to complete the package or it shall be returned. Prior to approval of any application or plan by either the Planning Commission or Planning Commission Administrator, comments shall be requested from the appropriate review agencies.

4. If the submittal package is complete it will be distributed to all the appropriate review agencies for confirmation that the package is sufficient for review. If a review agency determines they do not have adequate information, the submittal package will not be accepted for review, and the applicant shall be required to resubmit the package in accordance with the approved process.

5. Once an application has been reviewed and approved by all appropriate agencies, the application may be forwarded to the Planning Commission for major subdivisions and the Planning Commission Administrator for minor subdivisions (Concept Plan submittals are reviewed but not approved).

6. All subdivision plans and plats must be signed and sealed by a land surveyor registered in the state of Maryland.

## **B. Concept Plan Review**

1. Prior to submittal of an official subdivision application, a concept plan shall be submitted showing existing features and all ultimate development with respect to lots, roads, and other site improvements located in accordance with the provisions of this Ordinance. The purpose of this approach is to resolve problems before extensive engineering begins and to ensure the property is being efficiently designed by showing ultimate development of parcel. In the event that any of the individual provisions of this Ordinance, relating to the placement of lots and roads, conflict with each other as applied to a given site, these conflicts shall be noted in writing by the applicant as part of the concept plan submittal.

2. The procedures listed in Section 31-7.A above shall apply.

3. The concept plan submittal shall include all requirements on the concept plan checklist as established by the Department of Planning & Zoning and payment of the established fee.

4. A written request to waive or reduce the requirement of a concept plan may be granted by the Planning Commission Administrator on a case by case basis when the parcel is in an existing preservation program or when the parcel is limited to two or fewer residential lots.

5. Conceptual subdivision and conceptual site development plans may be combined as one submittal and only the conceptual site development plan fee shall be required.

6. Concept plan review shall be completed prior to submittal of the preliminary subdivision application package. The Planning Commission Administrator shall determine if the concept plan review has been completed.

## **C. Preliminary Plan Review**

### **1. Purpose**

The purpose of the preliminary subdivision plan is to provide a basis for Planning Commission to grant conditional approval of a proposed subdivision in order to minimize changes and revisions which might otherwise be necessary on the final plat.

### **2. General Requirements**

The drafting standards, information and proposed layout to be provided on the preliminary plan shall adhere to the application requirements and checklist as established by the Department of Planning & Zoning. Payment of the established fee shall be required at time of submittal.

### **3. Health Department Approval**

Perc tests shall be performed, and septic recovery areas approved by the Department of Environmental Health prior to preliminary submittal of any lot regardless of size unless otherwise waived by Environmental Health. If the lots are to be connected to an existing sewer system, then the allocation for the lots shall be approved prior to preliminary approval. If the lots are to be connected to a proposed sewer system, then the construction plans for the new system shall be approved by the appropriate agencies prior to final plat approval of the lots.

### **4. Preliminary Plan Procedures**

a. The procedures listed in Section 31-7.A above shall apply.

b. If the subdivision is located within the Critical Area, comments shall also be requested from the State Critical Area Commission and other appropriate environmental agencies through the State Critical Area Commission.

c. By authority of the Planning Commission, proposed minor subdivisions may be granted preliminary approval by the Planning Commission Administrator in accordance with these Regulations.

## 5. Revisions after Preliminary Approval

No review agency may approve subsequent changes to an approved preliminary plan. Any such changes or revisions shall be submitted to the Department of Planning & Zoning and the revised application package shall adhere to the review and approval process set forth in this section. The revised preliminary plan shall be distributed for review and comment by all agencies that previously reviewed the preliminary plan. Minor revisions may be approved administratively, but major revisions that would change the layout and design, road alignments, open space and/or recreation area shall require Planning Commission approval.

## D. Final Plat Review

### 1. General

- a. The Final Subdivision Plat shall consist of a survey document, intended for record, incorporating those changes and requirements of the preliminary approval letter as approved by the Planning Commission in its approval of the Preliminary Subdivision Plan and the requirements of checklists as established by the Department of Planning & Zoning.
- b. A residential subdivision plat shall state the number of new lots, units, plats, building sites, or other divisions of land, and the remaining number of lots, units, buildings sites, or other divisions of land that may be created from any one or more lots or parcels shown on the subdivision plat. In Tier II areas (see Section 31-4.C above) the total number of lots, units, buildings sites, or other divisions of land shall be interpreted as the total allowed with connection to public sewer.
- c. Except as provided in this Article, when the tract or parcel of land that is subdivided reaches the maximum total number of lots, plats, building sites or other divisions of land that are allowed as a residential subdivision, the subdivision plat shall state that: *The residential subdivision may not be resubdivided or further subdivided, the remainder parcel or tract of land may not be subdivided, and the subdivision plat is subject to State Law and local ordinances and regulations. The remainder parcel or tract of land may be subdivided for nonresidential agricultural purposes.*
- d. Permanent reference monuments of stone or concrete, shown thus, Δ, at least 36 inches in length and four inches square with suitable center point shall be set flush with the ground at finish grade as required by Article 17 of the Annotated Code of Maryland (1957) as amended. A metal pipe three-quarters of an inch in diameter and at least 24 inches in length, shown thus, Δ, shall be located in the ground, flush at finish grade, at all intersections of roads, intersections of roads and alleys with plat boundaries, and at all points on roads, alleys and boundary lines where there is a change in direction or curvature and at all lot corners. A note shall be included on the final plat that references the installation of permanent monuments.

### 2. Preparation of Final Subdivision Plat

- a. Final plats for subdivisions of one to seven lots shall be prepared on sheets of either 8.5 inches by 13.5 inches and recorded in the Land Records of the Clerk of the Circuit Court or sheets 18 inches by 24 inches and recorded in the Plat Records of the Clerk of the Circuit Court.
- b. Final plats for subdivisions of eight or more lots shall be prepared on sheets of 18 inches by 24 inches and recorded in the Plat Records of the Clerk of the Circuit Court.

### 3. Approval of the Final Subdivision Plat

- a. The procedures listed in Section 31-7.A above shall apply.
- b. The Department of Planning & Zoning shall review the final plat and verify approval of other appropriate County agencies and compliance with all conditions of preliminary approval.
- c. The Planning Commission or its designee shall approve the final plat prior to recordation.
- d. Final plat approval may be delayed if the established standards for schools and/or roads are determined to be inadequate. See the Calvert County Code, Chapter 3, Adequate Public Facilities Requirements, as amended from time to time.

e. The Planning Commission or its designee shall record the final plat within 30 days of receipt of the original/mylar recording package. If the Planning Commission staff does not record the final plat within the above-specified time frame, the plat shall be considered approved and the Planning Commission shall issue a certificate to that effect on demand. An applicant may waive this requirement and consent to an extension of the period for approval.

f. By the authority of the Planning Commission, proposed minor subdivisions may be granted final approval and the Final Plat or Recording of Plat Sheet may be signed by the Planning Commission Administrator.

#### **4. Statements and Certificates**

The following certifications shall be provided on the plat using the statement language as provided in the checklists as established by the Department of Planning & Zoning:

- a. Property owner
- b. Surveyor certification and seal
- c. Health Officer
- d. Sight Distance
- e. Family Conveyance Affidavit, if applicable

#### **5. Recording of Plats**

a. The Planning Commission Administrator is responsible for submitting the approved final plat and any required legal documents to the Clerk of the Circuit Court for recording in the Plat Records of the Clerk of the Circuit Court. The Department of Planning & Zoning shall distribute the recorded plat to the applicant's land surveyor and appropriate public agencies.

b. No record plats shall be recorded by the Court Clerk unless such plat has been approved by the Planning Commission or its designee under provisions of this regulation and signed by its Chairperson or the Planning Commission Administrator.

#### **E. Expiration of Concept Plans and Preliminary Subdivision Plans**

The following expiration provisions shall apply to all concept plans and preliminary subdivision plans.

1. A concept plan shall expire 12 months after it has been accepted for review unless an application for a preliminary subdivision plan has been accepted.
2. An application for a preliminary subdivision plan shall expire 24 months after it has been accepted for review, unless approval is granted.
3. The approval of the preliminary subdivision plan expires after three years from approval date.
4. One 12-month extension for each stage identified in items 1 through 3 above may be granted by the Planning Commission, or its designee, for circumstances beyond the control of the applicant.
5. A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.

#### **F. Phasing**

If a subdivision is proposed to be broken up into phases following concept plan approval, the proposed phasing plan shall be submitted for review and approval to ensure that all requirements of the original approved concept plan are still provided.

### **31-8 AMENITIES AND IMPROVEMENTS**

#### **A. General**

Improvements and/or amenities associated with roads may be shown on the road construction plans with cost estimates and bonded with the Public Works Agreement. If improvements and/or amenities are included on the road construction plans, approval by the Department of Planning & Zoning shall be required prior to approval of the final plat. For all improvements and/or amenities not included on road construction plans, a separate plan for the design, installation, and maintenance shall be submitted to the Department of Planning & Zoning in accordance with site plan procedures and standards. The plans for improvements and/or amenities shall be required to be reviewed and approved prior to approval of the final plat.

**B. Bonding of Improvements and Amenities**

No building permits shall be issued until an appropriate bond or acceptable guarantee has been provided and accepted by the County for completion of roads, sidewalks, lighting, recreational facilities, landscaping, and other amenities in the subdivision or that section of the subdivision in which the lot is located.

**C. Construction**

All construction work or improvements required by the subdivision approval and/or site plan shall be subject to inspection during construction, and to approval by appropriate public authorities upon completion of construction and determined to be adequate prior to release of bond.

**31-9 ADMINISTRATIVE AND AMENDED PLATS**

**A.** The Department of Planning & Zoning shall maintain a policy for processing administrative plats, including a checklist of submittal requirements.

**B.** If the applicant proposes changes to the approved final plat, an amended plat of subdivision shall be filed with the Planning Commission Administrator for review and approval, approval with conditions, or disapproval by the Planning Commission, and recorded. By the authority of the Planning Commission, amended plats of subdivisions of land containing seven lots or less may be reviewed and approved, approved with conditions, or disapproved by the Planning Commission Administrator. If the proposed amendment alters recreation areas or common open space within a particular section or phase and lot owners of that section or phase possess a vested interest in the recreation area or common open space through a specific grant by deed, plat, or other document recorded among the land records, then the application to the Planning Commission shall be signed by all property owners in that section or phase. If the subdivision is not recorded in sections or phases, then all property owners having a vested interest in the recreation area or common open space shall sign the application.

**C.** Administrative plats are required for any changes to the record plat that affect a lot or parcel including, but not limited to, lot line adjustments, easements, lateral line revisions, removal of a previously recorded condition and/or note, etc. Such revisions shall be drawn by a licensed surveyor and reviewed by the Department of Planning & Zoning and other County, State and Federal agencies. After all approvals, the plat shall then be recorded in the Land Records of Calvert County. Administrative plats may also include any changes to parcels of land that are not previously shown on a plat.

**D.** For any proposed development located on more than one parcel or lot, an administrative plat shall be required to combine the parcels or lots.

**E.** A note shall be added to an administrative or amended plat stating that all previously recorded notes and conditions are still valid except as indicated in the purpose note.

**31-10 REVIEW AND APPEAL**

**A.** If the Planning Commission authorizes the Planning Commission Administrator to approve subdivision plats pursuant to the authority granted in Maryland Code Article 66B, Section 5.02(b), as amended from time to time, the Planning Commission shall, upon the request of any person aggrieved by a decision of the Planning Commission Administrator, review the decision of the Planning Commission Administrator, provided that such request is received by the Planning Commission Clerk within 30 days of the date of the Planning Commission Administrator's final decision.

**B.** Appeals of decisions of the Planning Commission shall be noted with the Circuit Court of Calvert County. Appeals to Circuit Court shall be made in accordance with the Maryland Rules as set forth in Title 7, Chapter 200 within 30 days of the final decision of the Planning Commission.