

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 9

Bill No. 36-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT providing that the optional lot size method for computing open space requirements applicable to R-20, infill subdivisions, or resubdivisions creating fewer than ten lots applies only if certain sufficient open space can provide stormwater management and flood control protection within the Tiber Hudson Branch and the Plumtree Branch Watersheds; and generally relating to the Subdivision and Land Development Regulations.

Introduced and read first time July 1, 2019. Ordered posted and hearing scheduled.

By order Jessica Feldmark  
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on July 15, 2019.

Tabled 7/29/19

By order Jessica Feldmark  
Jessica Feldmark, Administrator

This Bill was read the third time on September 3, 2019 and Passed \_\_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

Expired on

9/9/19

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2019

\_\_\_\_\_  
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, The Tiber Branch Watershed and Plumtree Branch Watershed Safety Act, adopted  
2 by Council Bill No. 56-2018 and extended by Council Bill No. 20-2019, requires inquiry into  
3 any possible changes to stormwater management regulations; and  
4

5 **WHEREAS**, staff has reviewed the subdivision and land development regulations set forth in  
6 Title 16 of the County Code and has proposed the change made in this Act to ensure that  
7 sufficient space is allocated on properties in the R-20 zoning district, in infill subdivisions or in  
8 resubdivisions creating ten or fewer lots to provide storm water management and flood control  
9 protection within the Tiber Hudson Branch and Plumtree Branch Watersheds.  
10

11 **NOW THEREFORE**,

12  
13 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that the Howard*  
14 *County Code is amended as follows:*  
15

16 *By amending:*  
17 *Title 16, Planning, Zoning and Subdivisions and Land Development Regulations*  
18 *Subtitle 1. - Subdivision and Land Development Regulations*  
19 *Article II – Design Standards and Requirements*  
20 *Section 16.121(a)*  
21

22 **Title 16, Planning, Zoning and Subdivisions and Land Development Regulations**  
23 **Subtitle 1. - Subdivision and Land Development Regulations**  
24 **Article II. – Design Standards and Requirements**  
25

26 **Section 16.121. Public sites and open space.**

- 27 (a) *Open Space Requirements:*  
28 (1) *Purpose.* The purpose of open space requirements are:  
29 (i) To properly locate and preserve open space which protects environmental resources  
30 and provides for recreation or public use; and  
31 (ii) To equitably apportion costs of providing the sites necessary to serve the additional

1 families brought into the community by subdivisions or developments on the basis of  
 2 the additional need created.

3 (2) *Calculated as percentage of gross area of proposed subdivision or site development.*

4 Required open space shall be calculated as the following percentage of the gross area of  
 5 the proposed subdivision or development. The area of any overhead utility transmission  
 6 line easements shall be deducted from gross area before calculating the open space  
 7 requirement.

Zoning District		Minimum Open Space
RC, RR:	Agricultural Preservation Subdivisions	None
	Cluster, DEO or CEO Subdivisions	None
	Non-Cluster Subdivisions	Fee-in-lieu
R-ED		50 percent
R-20:*	All lots 20,000 square feet or greater	6 percent
	Developments using optional lot size:**	
	Min. Lot size 18,000 square feet	10 percent
	Min. Lot size 16,000 square feet	20 percent
	Min. Lot size 14,000 square feet	30 percent
	Min. Lot size 12,000 square feet	40 percent
R-12:*	All lots 12,000 square feet or greater	8 percent
	Developments using optional lot size:*	
	Min. Lot size 10,800 square feet	10 percent
	Min. Lot size 9,600 square feet	20 percent
	Min. Lot size 8,400 square feet	30 percent
	Min. Lot size 7,200 square feet	40 percent
R-SC		25 percent

R-SA-8		25 percent
R-A-15		25 percent
RMH		25 percent
PEC, NT, MXD, PGCC, PSC: As provided in Zoning Regulations		

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\* Developers in the R-20 and R-12 districts electing to use optional lot size shall select an optional minimum lot size to apply to the entire subdivision. For example, the developer of a 50-acre parcel in the R-20 district may create a subdivision with a minimum lot size of 14,000 square feet if at least 30 percent of the gross parcel area, or 15 acres, is provided as open space.

\*\* R-20 and infill subdivisions or resubdivisions creating ten or fewer lots may not use the optional lot size method unless there are wetland, stream or floodplain areas that the Department of Recreation and Parks wants to be dedicated to the County as open space **OR IF SUFFICIENT OPEN SPACE AREA IS NECESSARY TO PROVIDE STORM WATER MANAGEMENT AND FLOOD CONTROL PROTECTION WITHIN THE TIBER HUDSON BRANCH AND PLUMTREE BRANCH WATERSHEDS.** [[The creation of homeowner association open space is not permitted.]] If dedication to the County is required, R-20 lot sizes may be reduced to 18,000 square feet, exclusive of the pipestem areas.

(3) *Suitability.* Only land which is suitable to achieve the County's open space objectives for environmental protection, recreation and the provision of sites for public use can be used to meet the minimum open space requirements. Suitability is defined as follows:

- (i) Open space shall incorporate floodplains, wetlands, streams, wetland and stream buffers, forest conservation easements, and shall be linked with protected environmental land on adjacent property.
- (ii) Recreational open space and landscaped squares or areas should be integrated into subdivision design to create focal points along streets and at entrances.
- (iii) Parking lot islands, driveway easements serving nonopen space uses, overhead utility transmission lines, and narrow strips under 35 feet wide may not count towards minimum open space requirements.

(4) *Recreation open space.* A portion of the open space which is accessible and usable for recreation shall be provided:

- 1 (i) All residential subdivisions and site developments with more than ten dwelling units  
 2 or more shall have recreation open space, except in the RC and RR zoning districts and  
 3 except as provided in the new town, mixed use development, PSC, and PGCC zoning  
 4 districts;
- 5 (ii) Recreation land shall be regular in shape (generally square or rectangular) and suitable  
 6 for active recreation uses such as tot lots, ball fields, and courts or for passive recreation  
 7 in formal parks and squares;
- 8 (iii) Recreation open space shall not include wetlands or stream buffers, floodplains, forest  
 9 conservation easements, stormwater management easements, inlets, outfalls, and  
 10 stormwater management credit areas, or slopes over ten percent;
- 11 (iv) At least 20 feet of the perimeter of the recreation land must front on a public or private  
 12 road and the recreation area should be centrally located to the lots it serves.
- 13 (v) Recreation land should generally be consolidated into a single area, but may be divided  
 14 for more equitable distribution into two areas if the subdivision contains 50 or more  
 15 residential lots.
- 16 (vi) The following chart indicates the amount of recreation open space required:

Project Type	Recreation Requirement
Single-Family Detached R-20, R-12, square feet/unit .....	200
Single-Family Detached R-ED, R-SC, R-SA-8, R-A-15, square feet/unit .....	300
Single-Family Attached, square feet/unit .....	400
Apartments, square feet/unit .....	400
R-MH Dwellings, square feet/unit .....	400 or as provided in subparagraph(4)(vii) of this subsection

1 (vii) Recreational open space may be satisfied in whole or in part in the R-MH district by  
2 the construction of amenities including: community center, pool facility, or sports court  
3 paved area at a ratio of ten square feet of floor surface area per dwelling unit.  
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5 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***  
6 ***this Act shall become effective 61 days after its enactment.***