

# **Town of Brookeville Subdivision Ordinance**

## **Article I. In General**

### **Section 11-101. Purpose:**

This Ordinance shall be known and may be cited as the “Subdivision Ordinance of the Town of Brookeville, Maryland.” The purpose of this Ordinance is to regulate and control the division of land within the Town of Brookeville in order to promote the public health, safety, morals, and general welfare of the Town and to ensure consistency with the Town Comprehensive Plan and harmonious development throughout the Town.

### **Section 11-102. Definitions:**

The following words and terms have the meanings stated in this section. All other words and phrases have their common, ordinary meaning unless the context clearly indicates otherwise:

- (a). Arterial street : Any street used or to be used regularly for through traffic, and shall include all State and dual lane highways.
- (b). Primary residential street: Any street used or to be used as the principal means of access to any arterial street from existing or prospective residential development.
- (c). Street: A way for vehicular traffic, whether designated as a street, road, highway, lane, alley, or by any other name.
- (d). Subdivision: The division or assemblage of a parcel of land or lot or lots into one or more lots or parcels for the purpose of transfer of ownership or building development, whether immediate or future. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

## **Article II. Subdivision Restrictions**

### **Section 11-203.**

No person shall subdivide land in the Town of Brookeville unless and until a plat of subdivision is prepared and approved in accordance with this Ordinance and first recorded among the land records of Montgomery County.

### **Section 11-204.**

Placement and size of lots must be in accordance with the Brookeville Zoning Ordinance as approved by the Brookeville Town Commissioners.

### **Section 11-205.**

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No plat of subdivision which includes land in the Town of Brookeville shall be recorded among the land records of Montgomery County unless the approval of the Brookeville Planning Commission is endorsed in writing on said plat: and the Clerk of the Circuit Court of Montgomery County shall not accept for recordation any plat of subdivision of land in the Town unless said endorsement appears thereon.

### **Section 11-206.**

In the event that a plat is recorded among the land records of Montgomery County in violation of this Ordinance, the Planning Commission shall have the right to institute proceedings to compel said plat to be stricken from said land records and the Circuit Court for Montgomery County is hereby granted jurisdiction to issue appropriate orders in any such proceedings; provided that the Clerk of the said Court and the owners of the property which is subject of said plat are made parties defendant in said proceedings.

### **Section 11-207. Limitations on Issuance of Building Permits.**

No permit for the erection of any building or structure shall be issued unless the building or structure is to be located on a lot having satisfactory access to a public street; nor shall a building permit be issued when the lot has no access except to a street which was dedicated or constructed in violation of the laws, ordinances, or regulations of the Town in effect at the time of such dedication or construction, as the case may be. All lots must have a minimum of twenty five (25) feet of frontage on a public street unless this requirement is waived by the Brookeville Planning Commission for good cause shown.

No building or structure can be erected, altered, added to, enlarged, or any excavation started prior to the issuance of a building permit by the Town of Brookeville. No such building permit may be issued without the approval of the Brookeville Planning Commission and its finding that the proposed construction complies with the Brookeville Zoning Ordinance or is otherwise exempt from its provisions. The Commission may require applicants for building permits to submit such supporting information as the Commission deems necessary to allow it to make the necessary findings.

### **Section 11-208. Subdivision required for Building Permit to be issued.**

No permit for a new main building may be issued unless it is for activity to be conducted upon a lot subdivided in accordance with this Ordinance.

## **Article III. Preliminary Plan Requirements**

### **Section 11-301. Preliminary Plan.**

All persons seeking to subdivide land within the Town shall submit fifteen copies of a preliminary plan of subdivision to the Brookeville Planning Commission for review and approval, together with a fee as hereinafter specified to defray the cost of processing said plan. The Planning Commission will forward for comment copies of the plan to appropriate County

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and State offices and to the Town Commissioners and to the Brookeville Local Advisory Panel (pursuant to Chapter 24A of the Montgomery County Code). Each agency to which a plan is referred will return one copy of the plan to the Commission within forty-five ( 45) days of referral with its recommendation noted thereon. If such recommendation is not made within the thirty day period by any agency to which referred, the preliminary plan shall be deemed to be approved by it unless the period has been extended by the Commission.

### **Section 11-302.**

The preliminary plan shall be at a scale of 1" = 60' or larger. If more than one sheet is necessary to show the entire property, a composite plan at a smaller scale must also be submitted. Said plan, or other papers, plats, or documents filed therewith as exhibits shall show the following:

- (a). Title information and notes, including the name of the plan, scale, north arrow, area, zoning and density calculations showing total number of units.
- (b). Vicinity location map to scale at a scale of 1" = 2000'.
- (c). Certificate of registered professional engineer or registered land surveyor as to the source and accuracy of boundary lines, topographic data, and other engineering or survey data.
- (d). Location, names, dedicated widths and construction details for all existing roads and dedicated rights-of-way or easements; their location, width, and purpose.
- (e). Other existing and proposed rights-of-way or easements; their location, width, and purpose.
- (f). Names and addresses of adjacent and confronting property owners.
- (g). Location of existing and proposed utilities.
- (h). Existing topography with contour intervals not greater than five feet.
- (I). One-hundred year floodplain (indicate source) and twenty-five foot building restriction line.
- (j). Existing features and structures, including tree groves of substantial character, including location of all trees of six inches diameter, scenic or historic areas – including archaeological resources or structures, streams, wetlands and outstanding topographic features.
- (k). Lot lines, lot numbers, and block locations.
- (l). Areas, if any, to be reserved or dedicated for parks, playgrounds, or other public uses.
- (m). Proposed method of sewage disposal and water supply. Proposed location of sewage disposal system and water supply for each lot except where public sewer and water are available.

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(n). Proposed streets, width, percentage of tangent grades, length of crest and sag vertical curves and elevations thereof, and elevations of all intersecting streets.

(o). Metes and bounds description and survey of the boundary of the land proposed for subdivision.

(p). A storm water management concept.

(q). Minimum building setbacks proposed.

(r). Proposed method of conserving any area not included in lots to be developed or dedicated for public use.

### **Section 11-303. Fees.**

No plan shall be accepted for review and filing unless and until the applicant shall pay a fee of \$750 for the first lot and \$100 for any additional lot shown on such plan. Such fee may be amended from time to time by Resolution by the Brookeville Commissioners.

Prior to approving the Record Plat the Town shall compute the engineering, planning, legal and other costs it has incurred in reviewing the application for approval of the subdivision plan and shall charge and collect the same from the applicant to the extent that such costs exceed the fees previously charged and collected. (Ordinance No: TX 2018-02)

### **Section 11-304. Notice to adjacent and confronting property owners**

Upon certification by the Town that the application is complete, the applicant shall send a copy of the proposed plan to all adjacent and confronting property owners and shall provide them with a notice that the complete file is available for public inspection at the Town offices and informing them of the scheduled hearing date of the plan. The applicant shall so certify to the Town that such notice has been provided within ten days of the filing of a complete application.

### **Section 11-305. Hearing**

The Planning Commission shall hold a public hearing on all subdivision applications which shall be duly noticed to all interested parties.

## **Article 4. Standards for Approval**

### **Section 11-401.**

In approving a preliminary plan of subdivision, the Planning Commission must find that the proposed plan will not:

(a). Constitute a violation of any provision of this ordinance, the Brookeville Zoning Ordinance, or other applicable law;

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- (b). Violate or adversely affect the Comprehensive Master Plan for the Town of Brookeville;
- (c). Overburden existing public services, including but not limited to water, sanitary sewer, public road, storm drainage and other public improvements;
- (d). Affect adversely the health or safety of persons residing in the neighborhood;
- (e). Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- (f). Be unsuitable for the type of development, the use contemplated and available for public utilities and services; or
- (g). Unreasonably disturb existing topography, in order to minimize storm water runoff and to conserve the vegetation cover and soil.
- (h). Violate any requirement or condition imposed by the Montgomery County Historic Preservation Commission.

### **Section 11-402. Planning Commission Approvals**

No preliminary plan shall be approved by the Planning Commission unless there is on file with the Commission the recommendation of such County or State government departments which have jurisdiction in the area affected by the subdivision.

The Planning Commission shall approve or disapprove a complete preliminary plan within 90 days after it is filed, unless the applicant agrees to an extension of time for approval or disapproval. If the plan is approved by the Planning Commission, with or without modifications, one copy showing said modifications, if any, shall be returned to the applicant.

## **Article V. Final Plat Requirements**

### **Section 11-501.**

Within six months after the approval of a preliminary plan of subdivision, the subdivider shall file with the Planning Commission a final plat of subdivision. If a final plat is not submitted within said six month period, the approval of the preliminary plan shall expire in which case it shall be necessary for any person desiring to subdivide said land to start again with the filing of a preliminary application.

### **Section 11-502.**

The final plat of subdivision shall be clearly and legibly drawn in black India ink upon linen or Mylar and shall conform to the requirements for submission adopted by Montgomery County in Chapter 50 of the Montgomery County Code as may be amended from time to time.

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### **Section 11-503.**

The final subdivision plat shall show:

- (a). Street lines, lot lines.
- (b). Sufficient data to determine readily the location, bearing, and length of every street line, lot line, block line, and boundary line, as well as sufficient data to reproduce the same on the ground.
- (c). The length of radii, arcs, tangents, and chords with chord bearings, and central angles of street curves referenced to a curve table.
- (d). Name and right-of-way width of each street or other right-of-way.
- (e). Location, dimensions, and purposes of easements.
- (f). All dedications and reservations and purposes of same.
- (g). All minimum building setback lines.
- (h). Lots numbered in numerical order. If a subdivision contains more than one block, blocks shall be lettered in alphabetical order.
- (I). Location and description of monuments. Metal monuments three-quarters of an inch in diameter and twenty-four inches in length, shown thus: o shall be located at all intersections of streets, intersections of streets with plat boundary lines where there is a change in direction of curvature. Permanent stone or concrete monuments shown thus:[] shall be placed wherever required by the Planning Commission. Such permanent monuments of stone or concrete shall be at least thirty-six inches in length and six inches square, or six inches in diameter, with a suitable center point. All monuments shall be set in the ground flush to be the finished grade before the final plat is approved.
- (j). Names of adjoining subdivisions and names of owners of adjoining un-subdivided property.
- (k). References to adjoining subdivisions and property by liber and folio number.
- (l). Name of subdivision, which shall be subject to approval of the Planning Commission, and location, north arrow, scale, and date.
- (m). Certificate by surveyor or engineer certifying to accuracy of the plat.
- (n). Statement by owner dedicating streets, rights-of-way, and other areas to public use and adopting the Subdivision Record Plat, necessary easements and all other conditions imposed by operation of this Ordinance, the Brookeville Zoning Ordinance or the Brookeville Planning Commission or Brookeville Town Commissioners.

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(o). The plat shall set forth verbatim or shall contain an approved reference to all restrictions and conditions required by the Health Department and any other agency.

### **Section 11-504.**

When the final plat is submitted to the Planning Commission for approval, the subdivider shall also file with the Planning Commission a title report, certificate of title, or comparable evidence showing the names and addresses of the holders of all legal and equitable interests in and to said land. At the same time, the subdivider shall also file with the Planning Commission two copies of any covenants he/she intends to record which will affect any portion of the proposed subdivision.

### **Section 11-505.**

The Planning Commission shall approve or disapprove a final subdivision plat within sixty (60) days after the same is submitted. Otherwise such plat shall be deemed to be approved and a certificate to that effect shall be endorsed on the plat upon demand. However, with the applicant's consent, the Planning Commission may extend the time for approval or disapproval.

### **Section 11-506.**

Upon approval of a final subdivision plat, the approval by the Planning Commission shall be endorsed thereon by signature of the Chairperson or acting Chairperson. The Planning Commission shall thereupon inform Montgomery County that such plat has been approved and shall further inform the County of any changes on said plat not shown on the preliminary plan. If the Planning Commission shall refuse to approve any final subdivision plat, it shall deliver to the applicant in writing its reasons for such disapproval.

## **Article VI. Design Standards**

### **Section 11-601. General Statement of Intent.**

The Town of Brookeville is a Historic District as defined and protected under the provisions of Montgomery County's Historic Preservation Ordinance, Chapter 24A of the Montgomery County Code. As such, any substantial changes to the exterior of a resource or disruption of the integrity of the environmental setting in which the resource or resources are located including new construction is a proper subject for appropriate action under the Ordinance and shall be reviewed in accordance with the following standards and as further supplemented by the Town of Brookeville Comprehensive Plan. Additionally, given the historic and distinctive character of Brookeville and its historic resources with their appurtenances and environmental settings and open spaces, any subdivision application and related site plans will be reviewed and acted upon by the Planning Commission in a manner which will not threaten, diminish, or destroy said character.

### **Section 11-602. Streets.**

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Streets shall be arranged and located with due regard to existing streets, topographical conditions, public convenience and safety, and surface drainage. Minimum right-of-way and design and construction standards for streets shall be determined on a case by case basis and with due regard for the established patterns of development and with appropriate reference to standards adopted by Montgomery County.

### **Section 11-603. Lighting.**

Cast iron street lights of the specifications and type used by the Town shall be placed at designated intervals on streets servicing new subdivisions.

### **Section 11-604. Utilities.**

All utilities servicing new subdivisions shall be placed under ground.

### **Section 11-605. Landscaping.**

Landscaping of street right-of-ways, trees of suitable and size and buffering as deemed appropriate by the Planning Commission shall be provided. No trees of six or more inches in diameter shall be removed or otherwise eliminated by the subdivider without express approval by the Planning Commission.

### **Section 11-606. Arrangement of lots and new construction.**

The size, width, depth, and shape of lots shall be compatible with the established rhythm of the adjacent historic resources and the environments/historic settings in which they are located. The massing of new construction shall reflect and be compatible with the proportion of structure size to open space of existing adjacent historic resources and the adjoining historic streetscape.

### **Section 11-607. Areas for Public Use.**

Where deemed essential by the Planning Commission, the Planning Commission may require the dedication or reservation of areas or sites for streets, sidewalks, parks, play areas, or other public uses. Whenever land is reserved for a public use, the reservation shall expire at the end of a period of three years except that it may be renewed once as hereinafter provided. During the period of reservation, the land may be acquired by any public agency by condemnation, purchase or otherwise. A reservation may be renewed once for a period not to exceed one year, whenever a public agency shall deliver to the Planning Commission a statement in writing that it wishes to acquire the land in question for public use, the particular public use is specified, and said agency states it has good reason to believe that it will acquire said land for such purpose within a period of one year. Land dedicated to public use and land reserved for public use shall be exempt from State, County, and Town real estate taxes so long as said dedication or reservation shall continue.

## **Article VII. Miscellaneous Provisions**

### **Section 11-701. Resubdivision**

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Resubdivision occurs when a previously recorded platted lot is further divided into one or more additional lots. Lots shown on any plat of resubdivision shall be of substantially the same character and street frontage as other lots within the existing subdivision and similarly situated lots in the vicinity. They must conform to the area and size requirements of the Brookeville Zoning Ordinance as may be amended from time to time.

### **Section 11-702. Construction of Streets.**

No person shall construct any street, public or private, until a plat, showing the location thereof, is approved and recorded in accordance with this Ordinance; provided that this section shall not apply to driveways or any road which does not lead to or connect with other lots or parcels of land; nor shall it apply to any street shown on a subdivision plat legally recorded among the land records of Montgomery County prior to the effective date of this Ordinance.

### **Section 11-703. Compliance With All Laws and Regulations.**

All subdivision plats and shall conform in all respects to the health and all other applicable laws and regulations of Montgomery County and the State of Maryland as amended.

### **Section 11-704. Variation from Requirements.**

Where the land involved in a subdivision is subject to limitations or conditions that would make it impossible, impractical or where it would cause unusual and unnecessary hardship to conform fully to this Ordinance, the Planning Commission may consider and grant such minimum variation from the provisions of the Ordinance as may reasonably be necessary to grant such relief; provided that the variation shall not be inconsistent with the purposes and objectives of the Brookeville Comprehensive Plan or the Brookeville Zoning Ordinance, and not adverse to the public interest.

### **Section 11-705. Appeals.**

Any party aggrieved by a final decision of the Brookeville Planning Commission under this Ordinance may file an appeal of such decision to the Brookeville Board of Appeals pursuant to the requirements of Section 4.07 of Article 66B of the Maryland Code Annotated within thirty (30) days of the date of issuance of such final decision.

### **Section 11-706. Remedies and Penalties.**

The Planning Commission or the Town Commissioners or any owner or occupant of neighboring property may institute injunction, mandamus or other appropriate action or proceedings to prevent or terminate any violation of this Ordinance, and the Circuit Court for Montgomery County is hereby granted jurisdiction to issue restraining orders, temporary and permanent injunctions, mandamus or other appropriate forms of remedy or relief.

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In addition or as an alternative, a violation of this Ordinance may be prosecuted as a municipal infraction in the District Court of Maryland, subject to a fine of \$1000.00 or imprisonment for six (6) months, or both.

### **Section 11-707. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

### **Section 11-708.**

In any instance where any provision of this Ordinance conflicts with any other provision of law, that provision which is more restrictive or imposes a higher standards shall govern. Such determination shall be made by the Brookeville Planning Commission.