



## Regulatory Application Refunds and Fees

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Angela Brown, Supervisor, [Angela.Brown@montgomeryplanning.org](mailto:Angela.Brown@montgomeryplanning.org), 301 495-4611

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Mark Pfefferle, Chief, [Mark.Pfefferle@montgomeryplanning.org](mailto:Mark.Pfefferle@montgomeryplanning.org), 301 495-4730

Completed: 6-17-18

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### SUMMARY

1. Staff recommends the Planning Board adopt a Refund Policy for regulatory applications.
2. Staff recommends the Planning Board delegate limited ability to the Planning Director to reduce application fees.

### BACKGROUND

The Planning Department does not have a policy for the return of regulatory application fees when an applicant chooses not to pursue a submitted application. The general practice has been to return 100 percent of the application fees when requested, however, this practice results in significant staff time spent on regulatory review without compensation to the Department; a practice that is inconsistent with the purpose of the Development Review Special Revenue Fund. Application fees are set by various Planning legislative actions.

Section 50.10.5 of the Montgomery County Code – Subdivision Regulations states, “The Board must approve by resolution the fees necessary to cover the costs of administering this Chapter”. This covers fees for any application related to subdivision plans, record plats, pre-preliminary plans, extensions to validity periods, administrative subdivisions, subdivision waivers and plan amendments.

Section 59.7.6.5.A.2 of the Montgomery County Zoning Ordinance states, “Where the Planning Board is the deciding body, fees to cover the cost of administering this Chapter must be approved by resolution of the Planning Board”. This covers site plans, sketch plans, project plans, staging allocation requests and plan amendments.

Chapter 22A, Article IV. Administration, Section 22A-26. (d) of the Montgomery County Code states, “The Planning Board must charge a fee to cover at least partially the costs of administering this Chapter, including review of submittals and field inspections. The fee schedule must be set by the Planning Board as part of the development application process.” This chapter covers the fees for natural resources

inventories/forest stand delineations, exemptions from submitting forest conservation plans, and forest conservation plans.

## **ANALYSIS**

- 1. Refund Policy:** In the absence of an established refund policy, in most cases, the Planning Department has been refunding the entire application fee. Fees have been refunded inconsistently and without clear guidelines or rationale. Most importantly, this practice does not recognize the substantial work that is required by staff during the application submittal process. Days and sometimes weeks of time and effort from the Intake Staff and possible initial regulatory reviews must occur before an application can be accepted and scheduled for our Development Review Committee Meeting. Therefore, staff believes it is critical to establish a refund policy that recognizes the staff time that has occurred on an application and allows the Planning Department to capture some of the costs for the intake and initial review of the application.

Establishing a clear, consistent, and transparent refund policy will ensure that all applicants are treated fairly and equitably, and that the Planning Department is properly and adequately compensated for the considerable time and effort undertaken by Staff in the application submittal and review process.

**Attachment A** is the proposed Refund Policy.

- 2. Application Fees:** The Montgomery County Code is clear that the Planning Board adopts regulatory application fees and does not delegate the assignment or reduction of fees to the Planning Director. However, applicants, and in some instances their attorneys, have contacted the Director's Office or Planning Staff to request a reduction in the application fee. In the past, several reductions were erroneously granted. Staff believes that if an applicant wishes to receive a reduction in fees, only the Planning Board can establish a fee different from the Board approved fee structure. Since the Planning Board has approved the departments fee structure, then any applicant that wishes to obtain a reduction in the application fee must make the request to the Planning Board for a discussion and determination in public session.

Because of the significant public benefit, Staff does believe the Planning Board should delegate authority to the Planning Director to deviate from the approved fee schedule for applicants that are committed to 25% or more moderately priced dwelling units (MPDUs) as part of the overall project density. There is a desire to create incentives for additional MPDUs above the existing minimum required at either 12.5% or 15%. The ability for the Planning Director to reduce the application fee could be a very good incentive. This request is consistent with County Council Bill No. 36-17 that became effective on February 15, 2018, wherein applications with more than 25% MPDUs are not required to pay impact taxes.

**Attachment B** is the existing Fee Schedule and Worksheet.

**Attachment C** is the new “Application Fee Reduction Request” form.

**Recommendations:**

Based on the discussion above, Planning Staff is recommending the Planning Board 1) adopt the Refund Policy, and 2) delegate authority to the Planning Director to modify the application fee structure for regulatory applications that have 25% or more MPDUs.

## **Attachment A**

### **Montgomery County Planning Department Refund Policy**

#### **Application Fees Not Paid**

1. Application is still in “Intake” phase of the application process and the applicant requests the withdrawal of the application. No fees paid, no refund to be made.

#### **Application Fees Paid for Plans that require Planning Board Hearing.**

1. Plans accepted, but applicant requests refund prior to DRC Distribution - 90% refund
2. Plans accepted, but applicant requests refund after DRC Distribution, but before the DRC Meeting – 80% refund
3. Plans accepted, but applicant requests refund after DRC meeting – 0% refund
4. Plans accepted, DRC occurs, and plan is withdrawn because of inactivity – 0% refund
5. Plans accepted, DRC occurs, and Planning Board approves the application – 0% refund

#### **Application Fees Paid for Plans that do not require Planning Board Hearing** (Forest Conservation Exemptions, Natural Resource Inventories/Forest Stand Delineations, Forest Conservation Plans associated with a Sediment Control Permit and plans reviewed Administratively)

1. Plans accepted, but applicant requests refund prior to distribution to staff for review – 90% refund
2. Plans accepted, but applicant requests refund after the initial comments are received from the Area Team Reviewer – 0% refund
3. Plans accepted, comments provided, and the plan is withdrawn because of inactivity – 0% refund.
4. Plans accepted, but applicant request refund after plan decision – 0% refund

#### **Information Counter Purchases** (Master Plans, Special Studies, documents and manuals, photocopies, zoning maps, GIS maps, plats, paper copies of regulatory applications etc.)

1. No refunds.

#### **Miscellaneous**

1. No Cash Refunds.
2. All refunds will be made via check, and check refunds may take 3-4 weeks to process.
3. Credit Card Transaction Service Fees are non-refundable.

**Attachment B**



**Montgomery County Planning Department**

Maryland-National Capital Park and Planning Commission

Effective: February 13, 2017

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

[www.montgomeryplanning.org](http://www.montgomeryplanning.org)

Phone 301.495.4550  
Fax 301.495.1306

**FEE SCHEDULE AND WORKSHEET**

Application Number:	M-NCPPC Staff Use Only
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**To be completed by the Applicant**

Applicant:	
Project Name:	

**Pre-Application Submission** (check applicable boxes)

<input type="checkbox"/>	Staff Review Only	\$3,000.00	\$
<input type="checkbox"/>	Staff and Planning Board Review	\$4,000.00	\$

**NRI/FSD Natural Resources Inventory/Forest Stand Delineation** (check applicable boxes)

<input type="checkbox"/>	NRI/FSD	\$720.00	\$
<input type="checkbox"/>	NRI/FSD Amendment	\$410.00	\$
<input type="checkbox"/>	NRI/FSD Recertification Request	\$410.00	\$
<input type="checkbox"/>	Forest Conservation Exemption Request or Recertification	\$200.00	\$

**Forest Conservation Plan** (check applicable boxes)

<input type="checkbox"/>	Single Family Residential	\$480.00 + \$200.00 per lot	# of lots _____ x \$200 = \$ _____	\$
<input type="checkbox"/>	All Others	\$980.00 + \$290.00 per acre	# of acres _____ x \$290 = \$ _____	\$

*The above FCP fees must be paid in full with the preliminary forest conservation plan submission; previously, forest conservation fees were phased, with 70% due at time of preliminary FCP submission and the remainder at a later stage. The final fees for preliminary FCPs submitted between July 1, 2009 and June 30, 2011 are due with the final FCP submission. \$ \_\_\_\_\_*

<input type="checkbox"/>	FCP Amendment without Planning Board Hearing	\$750.00	\$
<input type="checkbox"/>	FCP Amendment with Planning Board Hearing	\$1,500.00	\$
<input type="checkbox"/>	Financial Security reduction, change, or release request	\$90.00	\$
<input type="checkbox"/>	Fence installation within a conservation easement request	\$135.00	\$
<input type="checkbox"/>	Forest Conservation Bank review	\$1,000.00	\$

Total This Page \$ **0.00**

**Administrative Subdivision Plan** (check applicable boxes)

<input type="checkbox"/> Existing Place of Worship or Institutional Use*	\$3,310.00	\$
<input type="checkbox"/> Up to 5 Lots in the AR Zone or Up to 3 Lots in Any Residential Zone	\$2,500.00	\$
<input type="checkbox"/> Consolidation of Existing Lots or Parts of Lots in a Nonresidential Zone	\$4,000.00	\$
<input type="checkbox"/> SPA within plan	\$750.00	\$

**Preliminary Plan of Subdivision** (check applicable boxes)

		<u>Residential (DUs=Dwelling Units)</u>	
<input type="checkbox"/> Residential			
<input type="checkbox"/> 1 to 100 DUs	\$2,500.00 + \$365.00 per DU	# of DUs (1 to 100) _____ x \$365 = \$ _____ + # of DUs (over 100) _____ x \$100 = \$ _____	\$
<input type="checkbox"/> DUs over 100	\$100.00 per DU		
<input type="checkbox"/> SPA within plan			
<input type="checkbox"/> 1 to 9 DUs	\$380.00		\$
<input type="checkbox"/> 10 to 50 DUs	\$750.00		
<input type="checkbox"/> more than 50 DUs	\$750.00 + \$20.00 per DU over 50	# of DUs > 50 _____ x \$20 = \$ _____	
		<u>Commercial/Industrial (SF=Square Feet)</u>	
<input checked="" type="checkbox"/> Commercial			
<input checked="" type="checkbox"/> 1 to 9,999 SF	\$4,000.00 + .15 per SF	# of SF _____ x \$0.15 = \$ _____	\$
<input checked="" type="checkbox"/> 10,000 to 24,999SF	\$5,000.00 + .15 per SF		
<input checked="" type="checkbox"/> 25,000 SF or more	\$6,000.00 + .15 per SF		
<input checked="" type="checkbox"/> SPA within plan	\$750.00		\$
		<u>Other</u>	
<input checked="" type="checkbox"/> New Institutional/Religious*	\$3,310.00		\$
<input checked="" type="checkbox"/> SPA within plan	\$750.00		\$
<input checked="" type="checkbox"/> Minor Amendment of Approved Plan	\$2,500.00		\$
<input checked="" type="checkbox"/> Minor Amendment of Approved Plan for FCP only	\$1,500.00		\$
<input checked="" type="checkbox"/> Extension of Approved Plan	\$2,390.00		\$
<input checked="" type="checkbox"/> Subdivision Regulation Waiver (50-38)	\$2,390.00 per waiver	# of waivers _____	\$

Total This Page \$ 0.00

(SPA=Special Protection Area)

\*Note: Only the following uses qualify for the "Institutional" application fee: dormitories; residential care facilities (any size); private ambulances or rescue; charitable philanthropic institutions; cultural institutions; family day care; group day care; day care centers; private educational institutions; private outdoor playground areas; publicly owned or operated swimming pools; and private club, service organizations.

**Site Plan** (check applicable boxes)

Residential (DUs = Dwelling Units)

<input type="checkbox"/> Residential			
<input type="checkbox"/> 1 to 9 DUs	\$4,000.00 + \$165.00 per DU	# of DUs _____ x \$165 = \$ _____	\$
<input type="checkbox"/> 10 or more DUs	\$5,500.00 + \$165.00 per DU		
<input type="checkbox"/> SPA within plan			
<input type="checkbox"/> 1 to 9 DUs	\$380.00		\$
<input type="checkbox"/> 10 to 50 DUs	\$750.00		
<input type="checkbox"/> more than 50 DUs	\$750.00 + \$20.00 per DU over 50	# of DUs > 50 _____ x \$20 = \$ _____	

Commercial/Industrial (SF=Square Feet)

<input type="checkbox"/> Commercial			
<input type="checkbox"/> 1 to 9,999 SF	\$4,000.00 + .15 per SF	# of SF _____ x \$0.15 = \$ _____	\$
<input type="checkbox"/> 10,000 or more SF	\$5,500.00 + .15 per SF		
<input type="checkbox"/> SPA within plan	\$750.00		\$

Other

<input type="checkbox"/> Institutional/Religious*	\$5,020.00		\$
<input type="checkbox"/> SPA within plan	\$750.00		\$

Major Amendment to Approved Site Plan Same as Site Plan (enter **with** SPA fee)

Minor Amendment to Approved Site Plan

Amendment Type

<input type="checkbox"/> Administrative	\$2,500.00		\$
<input type="checkbox"/> Consent Agenda	\$3,250.00		\$
<input type="checkbox"/> Limited	\$4,500.00		\$

**Record Plats** \$2,000.00 Number of Plats: \_\_\_\_\_ \$

Total This Page \$ 0.00

(SPA=Special Protection Area)

\*Note: Only the following uses qualify for the "Institutional" application fee schedule: dormitories; residential care facilities (any size); private ambulances or rescue; charitable philanthropic institutions; cultural institutions; family day care; group day care; day care centers; private educational institutions; private outdoor playground areas; publicly owned or operated swimming pools; and private club, service organizations.

**Sketch Plan** (check applicable boxes)

Commercial/Residential Base Fee

- Up to 20,000 square feet \$5,000.00
- Greater than 20,000 square feet \$10,000.00

Additional per SF fee

- Projects 0 – 500,000 square feet (SF) Same as Sketch Plan (enter above)
- Projects 500,001 – 1,000,000 square feet (SF)
- Amendment Same as Sketch Plan (enter above)

# of SF _____ x \$0.20 = \$ _____
# of SF _____ x \$0.25 = \$ _____

	\$
	\$
	\$
	\$
<b>Total Sketch Plan Fee</b> (sum of the above, or \$260,000.00, whichever is less)	\$ 0.00

**NOTE:** Sketch plan fees may be paid according to the following schedule:

- 25% of the total fee at initial application
- 25% of the total fee at final application
- 50% of the total fee within 75 days after the final application is accepted

**Project Plan** (check applicable boxes)

- Residential (DUs) \$4,500.00 + \$75.00 per DU
- Commercial (GFA) \$4,500.00 + \$0.15 per SF
- Amendment Same as Project Plan (enter above)
- Extensions \$2,310.00

# of DUs _____ x \$75 = \$ _____
# of SF _____ x \$.15 = \$ _____

Total Project Plan Fee (sum of the above, or \$260,000.00, whichever is less)

	\$
	\$
	\$
<b>Total Project Plan Fee</b> (sum of the above, or \$260,000.00, whichever is less)	\$ 0.00

**Staging Allocation Request (SAR)** (check applicable boxes)

- Residential (DUs)
- Non-Residential (Square Feet)

# of DUs _____ x \$1.00 = \$ _____
# of SF _____ x \$0.01 = \$ _____

Total SAR Fee (sum of the above)

	\$
	\$
<b>Total SAR Fee</b> (sum of the above)	\$ 0.00

Total This Page \$ 0.00



**Credit for Concurrently Filed Plans**

Credit for Preliminary and/or Site Plans filed concurrently with a Project Plan

A. Project Plan Fee \$ \_\_\_\_\_ / 2 = \$ 0.00 (maximum credit possible)  
 B. Preliminary Plan Fee \$ \_\_\_\_\_ + Site Plan Fee \$ \_\_\_\_\_ / 2 = \$ 0.00  
 Credit equals the lesser of A or B. Credit will be applied equally to the Preliminary and Site Plans if both are filed concurrently with a Project Plan.

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Credit for Preliminary and Site Plans filed concurrently after the approval of a Sketch Plan

A. Sketch Plan Fee \$ \_\_\_\_\_ / 2 = \$ 0.00 (maximum credit possible)  
 B. Portion of Sketch Plan credit not previously used \$ \_\_\_\_\_  
 C. Preliminary Plan Fee \$ \_\_\_\_\_ + Site Plan Fee \$ \_\_\_\_\_ / 2 = \$ 0.00  
 Credit equals the lesser of B or C. Credit will be applied equally to the Preliminary and Site Plans.

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Credit for Preliminary and Site Plan Amendments filed concurrently with a new Sketch Plan in order to take advantage of CR zoning that was applied to the property after the previous Preliminary and Site Plans were approved

A. Sketch Plan Fee \$ \_\_\_\_\_ / 2 = \$ 0.00 (maximum credit possible)  
 B. Portion of Sketch Plan credit not previously used \$ \_\_\_\_\_  
 C. Preliminary Plan Fee \$ \_\_\_\_\_ + Site Plan Fee \$ \_\_\_\_\_ = \$ 0.00  
 Credit cannot exceed B or C. Credit will be applied equally to the Preliminary and Site Plans if possible.

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Total This Page <\$ 0.00>

**Total Fee** \$ 0.00

	<i>Make checks payable to M-NCPPC</i>
Date Received	
Check No.	
Received by	

Contact us at the phone number listed at the top of the form if your application fee is eligible to be paid in installments.

# Attachment C



Development Applications and Regulatory Coordination  
**Montgomery County Planning Department**  
Maryland-National Capital Park and Planning Commission

Effective: June 28, 2018

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

www.montgomeryplanning.org

Phone 301.495.4550  
Fax 301.495.1306

## APPLICATION FEE REDUCTION REQUEST

Date Application Filed _____	Planning Board Date _____
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**Proposed Subdivision Name:** \_\_\_\_\_ **Acres:** \_\_\_\_\_

**Application Number:** \_\_\_\_\_ **Zone:** \_\_\_\_\_

**Primary Contact** (Person who will be the primary contact and point person)

Company Name		Contact Person	
Street Address			
City		State	Zip Code
Telephone Number	ext.	Fax Number	E-mail

### Attorney

Company Name		Contact Person	
Street Address			
City		State	Zip Code
Telephone Number	ext.	Fax Number	E-mail

### Other

Company Name		Contact Person	
Street Address			
City		State	Zip Code
Telephone Number	ext.	Fax Number	E-mail

### Attachments Required:

- **Fee Schedule and Worksheet** – Showing the actual fee amount due.
- **Statement of Justification** – Detailed statement providing the reason for the Application Fee Reduction Request, the proposed development, including the number of dwelling units, number of MPDU's provided, the total Commercial and Retail square footages, and the outcome you are requesting from the Planning Board.

# Attachment C

*Application Fee Reduction Request 2 of 2*

*Applicant hereby certifies that he/she is the sole owner of the subject property, is otherwise legally authorized to represent the owner(s) (written verification provided), or is a contract purchaser authorized to submit this application by the property owner (written verification provided).*

**Signature of Applicant** (*Owner or Owner's Representative*)

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*Signature*

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*Date*

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*Name (Type or Print)*