

PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2022, Legislative Day No. 4

Bill No. 21-22

Introduced by Ms. Fiedler

By the County Council, February 7, 2022

Introduced and first read on February 7, 2022
Public Hearing set for March 7, 2022
Public Hearing continued to March 21, 2022
Bill Expires May 13, 2022

By Order: Laura Corby, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Subdivision and Development and Zoning – Cluster
2 Development

3
4 FOR the purpose of adding subdivision and development and zoning provisions relating to
5 cluster development; exempting applications for cluster development made before a
6 certain date from the new provisions; prohibiting modifications to certain open space
7 requirements for cluster development; allowing “cluster development” as a conditional
8 use in certain residential zoning districts; adding the conditional use requirements for
9 cluster development; repealing the bulk regulations for cluster development in certain
10 residential zoning districts; repealing the conditional use and special exception use
11 requirements for “duplexes and semi-detached dwellings”; making certain conforming
12 changes; and generally relating to subdivision and development and zoning.

13
14 BY repealing: §§ 18-1-101(31); 18-10-122; and 18-11-123
15 Anne Arundel County Code (2005, as amended)

16
17 BY renumbering: §§ 17-1-101(16) through (101), respectively, to be 17-1-101(17) through
18 (102), respectively; 17-2-108(b) through (f), respectively, to be 17-2-108(c) through
19 (g), respectively; 18-1-101(32) through (163), respectively, to be 18-1-101(31) through
20 (162), respectively; 18-10-115 through 18-10-166, respectively, to be 18-10-116
21 through 18-10-166, respectively; and 18-11-124 through 18-11-167, respectively to be
22 18-11-123 through 18-11-166, respectively
23 Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter repealed from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.
Asterisks *** indicate existing Code provisions in a list or chart that remain unchanged.

1 BY repealing and reenacting, with amendments: §§ 17-2-101(b)(13) and (14); 17-2-108(a);
2 17-3-502(b); 17-3-505; 17-8-205(4); 18-4-106; 18-4-301; 18-4-401(a)(1); 18-4-501;
3 18-4-601; and 18-4-701
4 Anne Arundel County Code (2005, as amended)

5
6 BY adding: §§ 17-1-101(16); 17-2-101(15); 17-2-108(b); and 18-10-115
7 Anne Arundel County Code (2005, as amended)

8
9 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
10 *That §§ 18-1-101(31), 18-10-122, and 18-11-123 of the Anne Arundel County Code (2005,*
11 *as amended) are hereby repealed.*

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13 SECTION 2. *And be it further enacted,* That §§ 17-1-101(16) through (101), 17-2-
14 108(b) through (f), 18-1-101(32) through (163), 18-10-115 through 18-10-166, and 18-11-
15 124 through 18-11-167, respectively, of the Anne Arundel County Code (2005, as
16 amended) are hereby renumbered to be §§ 17-1-101(17) through (102), 17-2-108(c)
17 through (g), 18-1-101(31) through (162), 18-10-116 through 18-10-166, and 18-11-123
18 through 18-11-166, respectively.

19
20 SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County
21 Code (2005, as amended) read as follows:

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23 **ARTICLE 17. SUBDIVISION AND DEVELOPMENT**

24
25 **TITLE 1. GENERAL PROVISIONS**

26
27 **17-1-101 Definitions.**

28
29 Unless defined in this article, the Natural Resources Article of the State Code, or
30 COMAR, the definitions of words defined elsewhere in this Code apply in this article. The
31 following words have the meanings indicated:

32
33 (16) "CLUSTER DEVELOPMENT" MEANS A RESIDENTIAL DEVELOPMENT IN WHICH
34 DWELLING UNITS ARE CONCENTRATED IN A SELECTED AREA OR SELECTED AREAS OF THE
35 DEVELOPMENT THROUGH FLEXIBILITY IN LOT DESIGN, SO AS TO PRESERVE AND PROTECT
36 NATURAL FEATURES OR OTHER OPEN SPACE ON THE REMAINDER OF THE SITE, WHILE NOT
37 EXCEEDING THE ALLOWED DENSITY WITHIN THE ZONING DISTRICT.

38
39 **TITLE 2. GENERAL PROVISIONS**

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41 **17-2-101. Scope; applicability.**

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43 (b) **Applicability to pending and future proceedings.** Subject to the grandfathering
44 provisions of COMAR Title 27, this article applies to all pending and future proceedings
45 and actions of any board, department, or agency empowered to decide applications under
46 this Code, except that:

1 (13) an application for sketch plan approval, final plan approval, preliminary plan
2 approval, or approval of a building or grading permit associated with a site development
3 plan filed before January 1, 2019 shall be governed by the provisions of § 17-6-110 as they
4 existed prior to April 14, 2019; [[and]]

5
6 (14) the following shall be governed by the law as it existed prior to January 9,
7 2020:

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9 (i) an application for approval of a sketch plan, final plan, final infrastructure
10 construction plan, preliminary plan, or site development plan, and any building or grading
11 permits associated with these plans, filed on or before December 15, 2019;

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13 (ii) applications for building and grading permits that are not associated with a
14 final plan or site development plan filed on or before December 15, 2019;

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16 (iii) revisions to the plans and permits referenced in subparagraphs (i) and (ii)
17 that do not materially alter the proposed or actual limits of disturbance; and

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19 (iv) an application for a special exception filed on or before December 15, 2019
20 and all applications associated with the special exception[.]; AND

21
22 (15) AN APPLICATION FOR APPROVAL OF A SKETCH PLAN OR FINAL PLAN FOR A
23 CLUSTER DEVELOPMENT, AND ANY BUILDING PERMIT, GRADING PERMIT, OR OTHER
24 APPLICATION ASSOCIATED WITH A CLUSTER DEVELOPMENT, FILED BEFORE THE
25 EFFECTIVE DATE OF BILL NO. 21-22 SHALL BE GOVERNED BY THE LAW AS IT EXISTED
26 PRIOR TO THE EFFECTIVE DATE OF BILL NO. 21-22.

27
28 **17-2-108. Modifications.**

29
30 (a) **Generally.** [[The]] EXCEPT AS PROVIDED IN SUBSECTION (B), THE Planning and
31 Zoning Officer may approve an application for a modification to any provision of this
32 article [[other than § 17-2-107 or one contained in Titles 5, 8, or 9, except as allowed by
33 §§ 17-5-203(b), 17-5-205(b), 17-8-201(b), 17-8-203(c), 17-8-403, 17-8-601(b)(2), 17-8-
34 601(c), 17-8-901, or 17-9-401,]] and to any applicable regulations, manuals, or
35 specifications, including the DPW Design Manual, upon making specific findings,
36 enumerated in writing, that the modification request satisfies each of the following criteria:

37
38 (1) practical difficulties or unnecessary hardship will result from strict application
39 of this article or, for a modification relating to forest conservation, unwarranted hardship
40 will result due to special features of the site or other circumstances;

41
42 (2) the purposes of this article, including minimization and mitigation of
43 environmental impacts through the use of clustering or other available design alternatives
44 to preserve the character of the impacted area, will be served by an alternative proposal;

45
46 (3) the modification is not detrimental to the public health, safety, or welfare, is not
47 injurious to other properties, or, if the modification relates to forest conservation, does not
48 adversely affect water quality;

1 (4) the modification does not have the effect of nullifying the intent and purpose of
2 this article, the General Development Plan, or Article 18 of this Code; and
3

4 (5) the applicant has submitted written verification to the Office of Planning and
5 Zoning that:
6

7 (i) the requested modification was disclosed and discussed at a community
8 meeting required under this article; or
9

10 (ii) all owners of property located within 300 feet of the affected property were
11 mailed a notice explaining the reason for the modification, along with a copy of the request
12 for modification.
13

14 **(B) Modifications not allowed.** THE PLANNING AND ZONING OFFICER MAY NOT
15 APPROVE AN APPLICATION FOR A MODIFICATION TO:
16

17 (1) § 17-2-107;
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19 (2) ANY PROVISION CONTAINED IN TITLES 5, 8, OR 9, EXCEPT AS ALLOWED BY §§ 17-
20 5-203(B), 17-5-205(B), 17-8-201(B), 17-8-203(C), 17-8-403, 17-8-601(B)(2), 17-8-601(C), 17-8-901, OR
21 17-9-401; OR
22

23 (3) THE OPEN SPACE REQUIREMENTS OF § 17-6-111 FOR A CLUSTER DEVELOPMENT.
24

25 **TITLE 3. SUBDIVISION**

26 **17-3-502. Lot design criteria.**

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29 (b) **Building envelope.** A residential lot shall be of sufficient size to have a building
30 envelope[. Residential dwelling units on residential lots shall be clustered to the maximum
31 extent practicable as determined by the Office of Planning and Zoning. In determining the
32 extent to which clustering will be required for a minor subdivision or subdivision of lots
33 shown on a previously recorded plat, the Planning and Zoning Officer shall evaluate the
34 development patterns and lot sizes of adjoining properties and approve development that
35 does not substantially alter the character of the neighborhood. The lots shall be of sufficient
36 size to have a building envelope]] unencumbered by easements or restrictions that
37 substantially restrict the use of the building envelope.
38

39 **17-3-505. Residential subdivisions abutting heavy industrial zones.**

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41 A residential subdivision on property abutting a W3 Heavy Industrial Zone shall be a
42 cluster development pursuant to [[§ 17-3-502]] ARTICLES 17 AND 18 OF THIS CODE. [[For a
43 residential subdivision developed on a parcel of at least 20 acres under this section, the
44 Office of Planning and Zoning shall approve a development in accordance with bulk
45 regulations under § 18-4-601 of this Code in order to ensure, to the extent reasonably
46 practicable, sufficient buffers for the cluster subdivision for sight obstruction and to shield
47 against nuisances, including noise, light, vibrations, noxious odors, dust, or debris
48 emanating from the abutting industrial zone.]]

TITLE 8. CRITICAL AREA OVERLAY

17-8-205. Development in the IDA.

Development in the IDA shall comply with the following criteria in accordance with COMAR requirements:

(4) Proposed development shall use cluster development IN ACCORDANCE WITH ARTICLES 17 AND 18 OF THIS CODE as a means to reduce lot coverage and maximize areas of vegetation.

ARTICLE 18. ZONING

TITLE 4. RESIDENTIAL DISTRICTS

18-4-106. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the residential districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to the listed uses also are allowed, except that guest houses as accessory structures are prohibited and outside storage as an accessory use is limited to the lesser of 10% of the allowed lot coverage or 500 square feet.

Permitted, Conditional, and Special Exception Uses	RA	RLD	R1	R2	R5	R 10	R 15	R 22

Clay and borrow pits or sand and gravel operations	SE							
CLUSTER DEVELOPMENT	C	C	C	C	C			

Dwellings, duplex and semi-detached				[[SE]]	[[C]]	P	P	

18-4-301. Bulk regulations.

Except FOR CLUSTER DEVELOPMENT OR as provided otherwise in this article, the following bulk regulations are applicable in an RA District:

[[Cluster development:	
Minimum lot size	20,000 square feet

Maximum lot size	120,000 square feet
Minimum width at front of building restriction line	80 feet
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	15 feet
Side lot line	10 feet
Boundary line of the cluster development site	50 feet from adjacent residentially zoned and developed property, except that the setback may be reduced by the Planning and Zoning Officer to preserve environmental features and the setback may be reduced to 25 feet if the adjoining lot is an open space lot created under § 17-6-111 of this Code
Minimum setbacks from side and rear lot lines for accessory structures other than sheds that do not exceed 64 square feet in area and eight feet in height	10 feet or, for structures less than 8 feet in height (other than swimming pools, tennis courts, basketball courts, and similar private recreational facilities accessory to single-family detached, duplex, or semi-detached dwellings), 5 feet]]

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18-4-401. Bulk regulations.

(a) Generally.

(1) Except FOR CLUSTER DEVELOPMENT OR as provided otherwise in this article, the following bulk regulations are applicable in an RLD District:

[[Cluster development:	
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	15 feet
Side lot lines	10 feet
Boundary line of the cluster development site	50 feet from adjacent residentially zoned and developed property, except that the setback may be reduced by the Planning and Zoning Officer to preserve environmental features and the setback may be reduced to 25 feet if the adjoining lot is an open space lot created under § 17-6-111 of this Code

Minimum setbacks from side and rear lot lines for accessory structures other than sheds that do not exceed 64 square feet in area and eight feet in height	10 feet or, for structures less than 8 feet in height (other than swimming pools, tennis courts, basketball courts, and similar private recreational facilities accessory to single-family detached, duplex, or semi-detached dwellings), 5 feet]]
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18-4-501. Bulk regulations.

Except FOR CLUSTER DEVELOPMENT OR as provided otherwise in this article, the following bulk regulations are applicable in an R1 District:

[[Cluster development:	
Minimum lot size	None, except for adult independent dwelling unit developments served by public sewer with a minimum net area of 50 acres, each of which units shall be on a lot not less than 10,000 square feet
Maximum individual lot coverage by structures	Determined by setbacks and constraints imposed by characteristics of lot, coverage not to exceed 50%
Minimum width at front building restriction line	80 feet or, for adult independent dwelling unit developments served by public sewer with a minimum net area of 50 acres, 60 feet
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	10 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet from adjacent residentially zoned and developed property, except that the setback may be reduced by the Planning and Zoning Officer to preserve environmental features and the setback may be reduced to 25 feet if the adjoining lot is an open space lot created under § 17-6-111 of this Code
Minimum setbacks from side and rear lot lines for accessory structures other than sheds that do not exceed 64 square feet in area and eight feet in height	7 feet or, for structures less than 8 feet in height (other than swimming pools, tennis courts, basketball courts, and similar private recreational facilities accessory to single-family detached, duplex, or semi-detached dwellings), 5 feet]]

1 **18-4-601. Bulk regulations.**

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3 Except FOR CLUSTER DEVELOPMENT OR as provided otherwise in this article, the
 4 following bulk regulations are applicable in an R2 District:

[[Cluster development:	
Maximum individual lot coverage by structures	Determined by setbacks and constraints imposed by characteristics of lot, coverage not to exceed 60%
Minimum width at front building restriction line	50 feet
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	10 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet from adjacent residentially zoned and developed property, except that the setback may be reduced by the Planning and Zoning Officer to preserve environmental features and the setback may be reduced to 25 feet if the adjoining lot is an open space lot created under § 17-6-111 of this Code
Minimum setbacks from side and rear lot lines for accessory structures other than sheds that do not exceed 64 square feet in area and eight feet in height	7 feet or, for structures less than 8 feet in height (other than swimming pools, tennis courts, basketball courts, and similar private recreational facilities accessory to single-family detached, duplex, or semi-detached dwellings), 5 feet]]

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6 **18-4-701. Bulk regulations.**

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8 Except FOR CLUSTER DEVELOPMENT OR as provided otherwise in this article, the
 9 following bulk regulations are applicable in an R5 District:

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[[Cluster development:	
Maximum individual lot coverage by structures	Determined by setbacks and constraints imposed by characteristics of lot, coverage not to exceed 75%
Minimum width at front building restriction line	40 feet

Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	15 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet from adjacent residentially zoned and developed property, except that the setback may be reduced by the Planning and Zoning Officer to preserve environmental features and the setback may be reduced to 25 feet if the adjoining lot is an open space lot created under § 17-6-111 of this Code
Minimum setbacks from side and rear lot lines for accessory structures other than sheds that do not exceed 64 square feet in area and eight feet in height	7 feet or, for structures less than 8 feet in height (other than swimming pools, tennis courts, basketball courts, and similar private recreational facilities accessory to single-family detached, duplex, or semi-detached dwellings), 5 feet]]

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TITLE 10. REQUIREMENTS FOR CONDITIONAL USES

18-10-115. Cluster development.

A CLUSTER DEVELOPMENT SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS.

(1) SINGLE-FAMILY DETACHED DWELLINGS ARE ALLOWED IN CLUSTER DEVELOPMENTS LOCATED IN RA, RLD, R1, R2, AND R5 ZONING DISTRICTS. DUPLEX AND SEMI-DETACHED DWELLINGS ARE ALLOWED IN CLUSTER DEVELOPMENTS LOCATED IN R2 AND R5 ZONING DISTRICTS. NO OTHER TYPES OF DWELLING UNITS ARE ALLOWED IN CLUSTER DEVELOPMENTS.

(2) A CLUSTER DEVELOPMENT SHALL PROTECT ENVIRONMENTALLY SENSITIVE AREAS AND SHALL PERMANENTLY CONSERVE OPEN SPACE AND NATURAL FEATURES.

(3) IN RA, RLD, R1, R2, AND R5 ZONING DISTRICTS, THE FOLLOWING BULK REGULATIONS SHALL APPLY:

	RA	RLD	R1	R2	R5
MINIMUM LOT SIZE	20,000 SQUARE FEET	20,000 SQUARE FEET	10,000 SQUARE FEET	8,000 SQUARE FEET	3,500 SQUARE FEET
MAXIMUM INDIVIDUAL LOT COVERAGE BY STRUCTURES	25%	25%	40%	50%	55%

	RA	RLD	R1	R2	R5
MINIMUM SETBACKS FOR PRINCIPAL STRUCTURES:					
FRONT LOT LINE	5 FEET, OR 20 FEET IF PARKING IS LOCATED IN THE FRONT YARD	5 FEET, OR 20 FEET IF PARKING IS LOCATED IN THE FRONT YARD	5 FEET, OR 20 FEET IF PARKING IS LOCATED IN THE FRONT YARD	5 FEET, OR 20 FEET IF PARKING IS LOCATED IN THE FRONT YARD	5 FEET, OR 20 FEET IF PARKING IS LOCATED IN THE FRONT YARD
REAR LOT LINE	15 FEET	15 FEET	15 FEET	15 FEET	15 FEET
SIDE LOT LINES	10 FEET	10 FEET	7 FEET	7 FEET	7 FEET
MINIMUM LOT WIDTH AT THE BUILDING RESTRICTION LINE:	80 FEET	80 FEET	60 FEET	50 FEET	40 FEET
MINIMUM SETBACKS FROM SIDE AND REAR LOT LINES FOR ACCESSORY STRUCTURES	3 FEET	3 FEET	3 FEET	3 FEET	3 FEET
MAXIMUM HEIGHT:	AS REQUIRED IN THE UNDERLYING ZONING DISTRICT	AS REQUIRED IN THE UNDERLYING ZONING DISTRICT	AS REQUIRED IN THE UNDERLYING ZONING DISTRICT	AS REQUIRED IN THE UNDERLYING ZONING DISTRICT	AS REQUIRED IN THE UNDERLYING ZONING DISTRICT

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(4) RESIDENTIAL DENSITY MAY NOT EXCEED THE DENSITY ALLOWED IN THE ZONING DISTRICT IN WHICH THE CLUSTER DEVELOPMENT IS LOCATED.

(5) OPEN SPACE SHALL MEET THE GREATER OF THE OPEN SPACE REQUIREMENTS OF § 17-6-111 OF THIS CODE OR AN AREA EQUAL TO THE REDUCTION IN LOT SIZES BELOW THE MINIMUM LOT SIZE FOR NON-CLUSTER DEVELOPMENTS IN THE ZONING DISTRICT OF THE PROPERTY.

(6) STREETS, PARKING AREAS, AND SIMILAR FEATURES OR FACILITIES MAY NOT BE LOCATED IN OPEN SPACE.

(7) RECREATION AREAS, STORMWATER MANAGEMENT AREAS, AND SIMILAR FEATURES OR FACILITIES MAY BE LOCATED IN REQUIRED OPEN SPACE. UTILITY AND STORM DRAIN EASEMENTS MAY BE INCLUDED IN OPEN SPACE, PROVIDED THE USE OF SUCH AREAS FOR PASSIVE OR ACTIVE RECREATION USE IS NOT RESTRICTED BY THE TERMS OF THE UTILITY OR STORM DRAIN EASEMENT.

(8) EASEMENTS FOR FOREST CONSERVATION, FLOODPLAIN, OR OTHER ENVIRONMENTAL FEATURES MAY NOT BE PLACED ON INDIVIDUAL LOTS.

1 (9) A PLATTED OPEN SPACE BUFFER OF AT LEAST 50 FEET IN DEPTH SHALL BE
2 PROVIDED ALONG ALL BOUNDARY LINES ADJACENT TO EXISTING NON-CLUSTER SINGLE-
3 FAMILY RESIDENTIAL DEVELOPMENT, EXCEPT THAT THE BUFFER MAY BE REDUCED TO 25
4 FEET IN DEPTH IF THE ADJOINING LOT IS AN OPEN SPACE LOT CREATED UNDER § 17-6-111
5 OF THIS CODE.

6
7 (10) THE DEVELOPER SHALL PROVIDE NARRATIVE AND ILLUSTRATIVE
8 DOCUMENTATION SHOWING THAT THE SCREENING AND DESIGN TREATMENTS PROTECT
9 THE PATTERN OF RESIDENTIAL DEVELOPMENT ADJACENT TO THE CLUSTER
10 DEVELOPMENT.

11
12 (11) THE DEVELOPER SHALL PROVIDE A DECLARATION GOVERNING
13 MAINTENANCE AND CONTROL OF COMMON AREAS, INCLUDING RECREATIONAL
14 FACILITIES, OPEN SPACE, STORMWATER CONVEYANCE AND STORMWATER MANAGEMENT
15 FACILITIES, WHICH SHALL BE REVIEWED BY THE OFFICE OF PLANNING AND ZONING AND
16 THE OFFICE OF LAW AND SHALL BE RECORDED AMONG THE LAND RECORDS OF ANNE
17 ARUNDEL COUNTY. THE DECLARATION SHALL REQUIRE THE ESTABLISHMENT OF A
18 HOMEOWNER'S OR COMMUNITY ASSOCIATION BEFORE ANY LOT IN THE DEVELOPMENT IS
19 SOLD OR ANY BUILDING OCCUPIED AND SHALL ADDRESS THE POWER AND AUTHORITY OF
20 THE ASSOCIATION TO:

21
22 (I) MAINTAIN EXERCISE AND CONTROL OVER COMMON AREAS AND FACILITIES;
23 AND

24
25 (II) COMPEL CONTRIBUTIONS FROM RESIDENTS OF THE DEVELOPMENT TO
26 COVER THEIR PROPORTIONATE SHARES OF THE COSTS ASSOCIATED WITH THE
27 MAINTENANCE AND UPKEEP OF COMMON AREAS AND FACILITIES, INCLUDING ADEQUATE
28 NOTICE OF SUCH RESPONSIBILITIES AND ASSESSMENTS TO PROSPECTIVE PURCHASERS
29 AND EXISTING RESIDENTS.

30
31 SECTION 4. *And be it further enacted,* That all references in this Ordinance to “the
32 effective date of Bill No. 21-22”, or words that that effect, shall, upon codification, be
33 replaced with the actual date on which this Ordinance takes effect under Section 307 of the
34 County Charter as certified by the Administrative Officer to the County Council.

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36 SECTION 5. *And be it further enacted,* That this Ordinance shall take effect 45 days
37 from the date it becomes law.