

COUNTY LOCAL LAWS

option, satisfy the requirement of this Chapter by submitting, concurrently with the application for a building permit, to the Montgomery County Department of Environmental Protection a written agreement, as set forth hereafter, in a form required by the Director and approved by the Office of the County Attorney. A written notice of the intent to submit such an agreement shall be served upon the Director at least 90 days prior to the filing of the application for a building permit. The agreement shall covenant that so much of the land, designated in the approved site plan as land to which the optional zoning provisions for moderately priced dwelling units apply, as is necessary in order to construct the number of moderately priced dwelling units required by subsection (a) of this Section, shall be transferred, as finished lots, to Montgomery County, or to the County's designee, prior to the issuance of such building permit, in order that the County might cause moderately priced dwelling units to be constructed on the transferred land. After the submission of supporting documentation and review and approval by the County, the applicant shall be reimbursed by the County, or its designee, for the costs actually incurred by the applicant in developing the subdivision, which costs are directly attributable to the finishing of the moderately priced dwelling unit lots so transferred. Reimbursable costs shall include, but not be limited to, the following: Subdivision planning and engineering costs; clearing, grading, paving and cleaning of sites and streets, including any required bonds and permits; installation of curbs, gutters and sidewalks; sodding of public rights-of-way; erection of barricades and signs; installation of storm sewers and street lighting; and park and other open space and recreational development. No reimbursement shall be made for the cost or value of the transferred lots themselves.

At any time that an applicant elects to transfer land to the County under this subsection and no appropriated funds exist for the purpose of reimbursing the applicant for his finishing costs, the County may elect to accept from the applicant undeveloped land, rather than finished lots.

Notwithstanding any other provisions of this subsection, the election by an applicant to transfer land to the County may be rejected in whole, or in part, by the County whenever the public interest would best be served thereby. Any such rejection shall be taken into consideration by either the Planning Board or the Director when determining whether the applicant shall be granted a waiver of the requirements of this Chapter under Section 25A-5(b).

Any transfer of land to the County hereunder shall