

## MONTGOMERY COALITION TO STOP SEWER SPRAWL

Council President Hans Riemer and Councilmembers  
100 Maryland Avenue  
Rockville, MD 20850

September 4, 2018

Dear President Riemer and Councilmembers,

The Montgomery Coalition to Stop Sewer Sprawl (MCSSS) is comprised of four organizations – Watts Branch Watershed Alliance; Montgomery Countryside Alliance; West Montgomery County Citizens Association; and Conservation Montgomery. We share an interest in protecting waterbodies and open space in Montgomery County, including streams and groundwater that supply us with clean drinking water; these are located in our Agricultural Reserve and low-density areas surrounding it.

Our General Plan and Master Plans establish protection goals for water resource and open space protection. Continued adherence to these plans - including strictly limiting the extension of public sewer lines into rural and low-density areas - will ensure continued clean water protection for streams and groundwater. As Councilmember Marc Elrich noted in his July 12, 2018 memo to Councilmembers (attached),

“a majority of councilmembers has upheld the principle of presumption and full support for continued reliance on septic systems in the Agricultural Reserve and other low-density areas – a principle that is a foundational element in our General Plan, Master Plans, and clean water and planning laws.”

We expect the same council majority - Councilmembers Berliner; Hucker; Riemer; Elrich; and Navarro - to continue to support this policy, and the door remains open for other Councilmembers to join with the majority in voting for a Ten-Year Water and Sewer Plan Update that codifies this approach. Yet, for reasons that elude us, the August 24 staff draft supports a very different approach - one that continues to use areawide surveys to push sewer lines into areas that don't need them. We are writing to ask you to support the attached Montgomery Coalition to Stop Sewer Sprawl (MCSSS) clean water amendment. This supports the approach proposed by Councilmember Elrich in his July 12 memo, along with additional items proposed by MCSSS to support our clean water goals. We also ask that you reject any proposals allowing properties with functioning septic systems to be converted to sewer service. In fact, per DEP's "RE-1 Sewer/Septic Policy Framework Evaluation" five of seven organizations that DEP contacted support our position.

While we appreciate some of the proposed changes discussed at the July 12 committee session – notably, that areawide septic surveys must be initiated by sites with failures or “major problems,” and the provision of a mechanism for owners to opt-out of a survey - on balance, the latest proposal for the Water & Sewer Plan is a dirty-water, pro-sprawl approach. It would promote sewer sprawl by promoting sewer conversions for properties without documented failures and with on-site remedies, as happened in the South Overlea Drive survey in Glen Hills. Such an approach leaves septic owners vulnerable to unnecessary, costly sewer conversions – and subverts the intent of our General Plan, Master Plans, and clean water policies and programs.

The Montgomery Coalition to Stop Sewer Sprawl only supports a process whereby only properties with either documented septic failures or “potential problems<sup>1</sup>” and that have no on-site solutions, are included in an areawide survey. Otherwise, the scope and extent of future sewer category changes could be far larger than the scope that's

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<sup>1</sup> “potential problem” defined as: a condition that exists when the public cannot yet be exposed to, or come in direct contact with, inadequately treated sewage. For this condition to be validated, the Department of Permitting Services (DPS) certifies that an objective, observable warning sign indicates that failure has the potential to occur in the near term. This warning sign is defined as follows: the septic tank requires pumping more than four times a year, as certified by DPS, to resolve situations where the static level in the septic tank rises above the level of the inlet and/or outlet pipe.

# MONTGOMERY COALITION TO STOP SEWER SPRAWL - letter to Councilmembers 9.4.2018

intended by the T&E Committee and Council majority. If the areawide surveys are triggered by a property with a failed or potential problem system, but then allowed to include other properties with working septic systems without documented problems, the result could be more neighborhoods approved for unwarranted sewer category changes - like the South Overlea Drive Septic Survey in Glen Hills. These unwarranted sewer category changes would lead to extensive sewer sprawl, increased imperviousness and density, eventual sewer pipe leaks and breaks (Sanitary Sewer Overflows), and declining water quality. (It should be noted that WSSC sewer lines have spilled over 9 million gallons of raw sewage in three years (2015-2017). (<https://www.wsscwater.com/customer-service/emergency-sewerwater-problems/sanitary-sewer-overflow-reports.html>))

The map comparison below illustrates what's at stake with your upcoming vote on the proposed Update to the Ten-Year Water and Sewer Plan: Montgomery's commitment to clean water, open space, and agricultural land protection. The map on the left shows that the Agricultural Reserve and low-density Residential Wedge are the areas with the cleanest, healthiest streams (colored green for Good stream health, and blue for Excellent stream health). These are the areas served with septic systems. The map on the right uses red dots to show these septic systems, and sewer service areas are shown in green. Residents countywide who want to drink clean water and walk next to clean streams demand a Water and Sewer Plan that avoids sewer sprawl, and that supports property owners to maintain functioning septic systems.

At the September 11<sup>th</sup> council work session, we ask you to openly support the clean water amendment proposed by the Montgomery Coalition to Stop Sewer Sprawl.

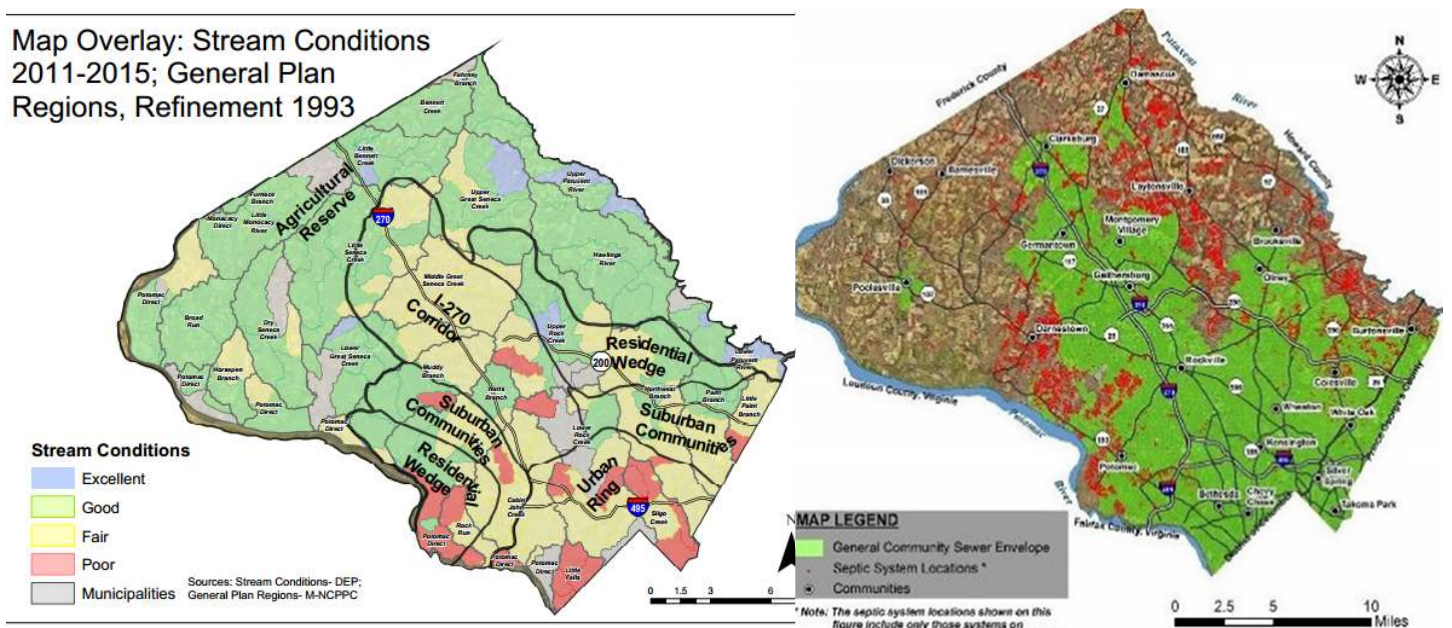
Sincerely yours,

Diane Cameron, Conservation Montgomery

Ken Bawer, Watts Branch Watershed Alliance

Caroline Taylor, Montgomery Countryside Alliance

Ginny Barnes and Susanne Lee, West Montgomery County Citizens Association





MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

MARC ELRICH  
COUNCILMEMBER AT-LARGE

MEMORANDUM  
July 12, 2018

TO: Councilmembers  
FROM: Marc Elrich *ME*  
SUBJECT: Follow-up on amendments to the Ten-Year Water & Sewer Plan

I am following up on the actions to date regarding my proposed amendments to the Ten-Year Water and Sewer Plan. Here is a summary of what has transpired:

- The 2019-2024 Update to the Ten-Year Water and Sewer Plan was discussed at length in committee in 2017, and by the full Council in 2018, most recently on April 17. Throughout the discussions, the focus has been the policy regarding on-site waste systems (e.g. septic systems). Based on these discussions, a majority of councilmembers has upheld the principle of presumption and full support for continued reliance on septic systems in the Agricultural Reserve and other low-density areas – a principle that is a foundational element in our General Plan, Master Plans, and clean water and planning laws.
- At the Council’s March 20th worksession, we discussed the amendments I proposed, which reinforce the underlying principle of presumption and full support for retaining septic service in the Agricultural Reserve and in other low-density areas. I mentioned two purposes for the amendments: (1) to establish a much-needed homeowner education and assistance program focused on better maintenance of the systems in areas served by septic; and (2) to change the focus of Septic System Surveys from areas where there are still-functioning septic systems, to areas that should be prioritized – those with failed or imminently failing systems, for which on-site remedies have been exhausted. After a lengthy discussion, there was a 5 - 4 straw vote in favor of adding language to place greater emphasis on educational elements and to narrow the scope of the survey areas.
- My revised amendment is attached. It includes changes that respond to the concerns raised in the April 17<sup>th</sup> council session, defines the term “imminently failing,” and retains the underlying principles of the original amendment.

- As I indicated in my March 15, 2018 memo and in the March 20<sup>th</sup> worksession, I am open to revised language so that a homeowner will not have to wait for a septic system failure before requesting a survey to determine whether there are feasible onsite remedies.
- I support language that allows sewer conversions for failed or “imminently failing” systems with no feasible onsite remedy, if we adopt a definition for that term as I am proposing. While staff has indicated its strong preference for the term “anticipated” public health problems, the definition allows consideration of very subjective factors such as the age of a system or theoretical soil conditions. Another argument for using “anticipated” was that it was used in several places in the Ten-Year Plan; however, the term “imminent” is also used in the plan (Section III.C.4.b: Aging Individual Systems).
- The April 17<sup>th</sup> packet includes staffs’ proposed language for final action on the Ten-Year Plan. In both Chapter 1, Section II.G.2.a (Individual Public Health Problems) and Section II.G.2.b (Area-Wide Public Health Problems) new language was added proposing separate consideration for properties depending on whether they are located within or outside of planned community service envelopes. This distinction was not made in past versions of the draft plan, the council did not discuss or request it prior to the straw vote, the sewer service envelope boundaries are unrelated to public health protection, and the differentiation dilutes the underlying presumption that properties on septic systems will continue to be on septic as long as there is an onsite remedy for a failed or imminently failing system. This presumption is important, because it provides long-term sustainability for the Agricultural Reserve, its low-density residential buffer, and other low-density areas throughout the county.

The April 17<sup>th</sup> packet also contains a memo sent by County Executive Leggett requesting that council reconsider its support for the proposed changes to the area-wide public health problems policy, indicating his preference for a policy that has allowed sewer conversions for properties which do not have failed or even imminently failing septic systems. However, when considering the advisability of the latter approach, one need only look at a “clean streams” map (attached) to see that the last best streams are in areas of the county where sewer has not been extended. I believe we can continue to protect our water supply and address the public health problems arising from failed or imminently failing septic systems. That is the goal of this amendment. Please let me know if you have any questions.

Thank you!

## **Montgomery Coalition to Stop Sewer Sprawl (MCSSS)**

Summary and Detailed Explanation of the proposed MCSSS amendment to the Water and Sewer Plan

### **Summary of items requested by MCSSS in the Water and Sewer Plan Ten-Year Update:**

- 1) Only septic systems that have documented failures or potential problems for which on-site solutions have been exhausted, are eligible for:
  - a) triggering a septic survey;
  - b) inclusion in a survey; or
  - c) consideration for a category change recommendation.
- 2) Replace “anticipated” health problem with “potential” health problem
- 3) Revise definition of “existing public health problems.”
- 4) Replace “major” and “significant” problem with “potential” problem as one of the conditions that make a property eligible for triggering a septic survey, inclusion in a survey, or consideration for a category change;
- 5) Remove distinction between within and outside the Planned Community Service Envelopes.
- 6) Do NOT grandfather evaluation criteria for the North Potomac Highlands Septic Survey.

### **Our reasons for the above changes are expanded below.**

- 1) Only septic systems that have documented failures or potential problems for which on-site solutions have been exhausted, are eligible for:
  - a) triggering a septic survey,
  - b) inclusion in a survey, or
  - c) consideration for a category change recommendation.

**Explanation:** It is our understanding that this policy was agreed to during the T&E Committee session on July 16<sup>th</sup>, but, the staff draft released on August 24 veers away from this policy. On March 20, 2018, a majority of Councilmembers took a straw vote in favor of an amendment offered by Councilmember Elrich establishing that “A category change should be limited to a failing or imminently failing system for which DEP certifies that there is not [a] feasible on-site solution.” In the 7/16 meeting, it was agreed to use the term “likely problem” instead of “imminent problem” as a concession to homeowners concerned about the impact of a term such as “imminent problem” or “imminent failure” on real estate values. This replacement, however, was not done in the Revisions to Council Staff draft of 8/24/18: “Health & Other Policy Updates (Post 7/16/18 T&E Meeting)”.

Therefore, since “major problem” is used in II.G.2.b, and “significant problem” is used in Appendix C, II.E, both of which are distinct from an actual failure, the Plan should standardize on using the term “potential problem”. As an example, a high-water level in a septic tank may not be either a “significant” or “major” problem if caused by overloading due to inappropriate simultaneous water usages.

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### 2) Replace “anticipated” health problem with “potential” health problem

**Explanation:** Eliminate use of the term “anticipated” to avoid any confusion with how the term “anticipated” was used in the past. As previously defined and used in surveys, this term has been discredited as a valid justification for granting a category change. An “anticipated” problem has been defined as the County’s expectation that onsite systems will not be capable of providing adequate water supply or wastewater disposal service at some unspecified time in the future – unfortunately, this definition was applied in Glen Hills to allow category changes for properties with perfectly functioning septic systems. An “anticipated” problem was based on bogus logic and assumptions since no lot-by-lot soil testing was done as recommended by the Glen Hills Area Sanitary Study. The sense of the 7/16/18 T&E Committee Meeting discussion was that this should no longer be a valid reason for granting a septic category change.

The definition of a Potential Public Health Problem (in reference to a septic system with a potential problem) should be: a condition that exists when the public cannot yet be exposed to, or come in direct contact with, inadequately treated sewage. For this condition to be validated, the Department of Permitting Services (DPS) certifies that an objective, observable warning sign indicates that failure is likely to occur in the near term. This warning sign is defined as follows: the septic tank requires pumping more than four times a year, as certified by DPS, to resolve situations where the static level in the septic tank rises above the level of the inlet and/or outlet pipe.

This definition was partially informed by the Massachusetts Department of Environmental Protection, <https://www.mass.gov/files/documents/2017/09/27/310cmr15.pdf>, (p.77/97):

Code of Massachusetts Regulations (CMR); 310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION; 310 CMR 15.000: THE STATE ENVIRONMENTAL CODE, TITLE 5: STANDARD REQUIREMENTS FOR THE SITING, CONSTRUCTION, INSPECTION, UPGRADE AND EXPANSION OF ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS AND FOR THE TRANSPORT AND DISPOSAL OF SEPTAGE

The difference between a “Potential Public Health Problem” and an “Existing Public Health Problem” (a.k.a. failed septic system) is that with a Potential Public Health Problem (as we define it) there is no untreated sewage on the surface of the ground, in a building, or otherwise exposed to the public. Thus, with a Potential Problem, prudent action can be taken to avoid an Existing Public Health Problem, i.e., possible public exposure to untreated sewage.

This definition of a “Potential Public Health Problem” and its inclusion as one of the triggers for a septic survey addresses the legitimate concern that homeowners should NOT have to wait for sewage in their basement or backyard before requesting (and being approved for) a septic survey. Instead, properties with either a failure or a “potential public health problem” would be eligible for a survey. Thus, there is now a pro-active scenario that should satisfy the legitimate concern for a pro-active approach in the near term (vs. decades in the future).

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Summary and Detailed Explanation of the proposed MCSSS amendment to the Water and Sewer Plan

### 3) Revise definition of “existing public health problems.”

**Explanation:** Our proposed revised entry in the Glossary for “Existing Public Health Problems (also referred to as Failed Systems)”: As stated in section III.C.4.c, onsite system failures may result in problems than can affect public and environmental health due to contact with inadequately treated sewage or contaminated drinking water. The following circumstances are among the most common that constitute an existing public health problem:

- The presence of inadequately treated sewage rising to the surface of the ground or backing up into a building.
- Evidence of a septic system discharging inadequately treated sewage into ground or surface waters. This includes problems such as drainfields constructed within the water table, constructed on fractured bedrock, and constructed with an overflow pipe that allows the surface discharge of inadequately treated sewage from the septic tank.”
- A well with inadequate water quantity yield. (State minimum standard is 1 gallon per minute.)
- A well with inadequate water quality, resulting from either an inflow of surface water or contamination of the groundwater source.
- A well that does not satisfy current regulatory standards, including hand-dug wells, wells without adequate sleeves/casing, etc. A structural failure of the well may result, such as a side wall collapse

The difference between an “Existing Public Health Problem” (a.k.a. failed septic system) and a “Potential Problem” is that with a Potential Problem (as we define it) there is no untreated sewage on the surface of the ground, in a building, or otherwise exposed to the public. The danger of exposure to sewage is the difference between an Existing Public Health Problem (failure) and a Potential Problem as we define it.

It should be noted that, per Ken Bawer’s conversation with DPS Manager Heidi Benham on 12/14/2017, DPS does not currently have a written definition of a failed system. A failure is not defined in the DPS "Well and Septic Guideline for Septic System Repairs" and it is not defined in either a) COMCOR CHAPTER 27A. INDIVIDUAL WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES — REGULATIONS or b) COMAR Title 26, Department of the Environment, Subtitle 04 REGULATION OF WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE. This need for a formal definition of failure - termed “Existing Public Health Problem” - is met by our proposed definition specified above.

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Summary and Detailed Explanation of the proposed MCSSS amendment to the Water and Sewer Plan

- 4) Replace “major” and “significant” problem with “potential” problem as one of the conditions triggering a septic survey, inclusion in a survey, or consideration for a category change.

### Explanation:

Since “major problem” and “significant problem” are both used, replace both of these terms with “potential problem”. This makes sense using the example of a high-water level in a septic tank that may not turn out to be a “major” or “significant” problem if caused by overloading due to inappropriate simultaneous water usages.

- 5) Remove distinction between within and outside the Planned Community Service Envelopes

**Explanation:** MCSSS objects to the insertion of separate sections for “Within the Planned Community Service Envelopes” and “Outside the Planned Community Service Envelopes.” This is a completely new distinction made by staff in the 4/17/2018 Analyst Packet. We urge elimination of any reference to “Service Envelopes” since this distinction has not been made in past versions of the draft plan, the Council did not request this change, and “the service envelope” is unrelated to public health protection.

Reasons to eliminate Planned Service Envelope distinctions from Section II.G.2.: Community Service to Relieve Public Health Problems (i.e., why the Service Envelope is not a useful concept for clean water protection):

- a) It is not transparent - the public does not have ready access to the map(s) or detailed list of areas that are "within" and "outside" the planned service envelope.
- b) The exact boundary of the “Planned Community Service Envelope” is impossible to discern given its proposed definition per the 4/17/18 Draft W&S Plan (Circle 21) in II.A.: County Water and Sewer Systems and in Appendix A: Glossary (note that this is not in the 7/16/18 T&E packet):

“Planned Community Water/Sewer Service Envelopes: Those areas intended for community service under the County’s Water and Sewer Plan’s general service policies and local area master plans recommendations.”

- c) The boundary of the Planned Community Service Envelope is arbitrary and therefore irrelevant to the issue of public health and clean water protection. The granting of a sewer category change from septic to sewer should be based solely on whether or not a public health problem exists. The decision to grant sewer category changes in Glen Hills to properties with functioning septic systems has made a mockery of the idea of a clearly defined Planned Community Service Envelope. What is the point of being outside the envelope if sewer lines can be extended at will?



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d) There are lots within the Planned Community Service Envelope that are not category 1 or 3 with no “by-right” ability to get an administrative category change. Even though a property is within the Planned Community Service Envelope, the existence of a public health problem, not a

geographical location, should drive consideration of a category change. Note that the proposed survey process for within the planned community service envelope is not even specified in this draft.

e) There are clean streams inside the Planned Envelope that must be protected.

**6) Do NOT grandfather evaluation criteria for the North Potomac Highlands Septic Survey**

**Explanation:** This survey was not triggered by documented septic system failures or problem septic systems showing signs of near-term possible failure. Furthermore, the County has no binding commitment to grant sewer category changes according to superseded criteria. There is absolutely no reason to continue through the survey review process using the old, flawed decision criteria.

**Please see the proposed MCSSS amendment to the Water and Sewer Plan Update – in the form of our specific, recommended text edits (deletions and additions) in GREEN to the August 24 staff draft titled: “Health & Other Policy Updates (Post 7/16/18 T&E Meeting)”.**

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 1

**Underscored Text** Proposed Additions **Bracketed Text** or **Strikethrough Text** Proposed Deletions  
▶ Added/Revised Following 7/16/18 T&E Meeting **Blue Highlighted Text** Revisions to Keith's Edits  
**Green Underscored Text** MCSSS Proposed Additions **Green Bracketed Text** or **Green Strikethrough Text** MCSSS Proposed Deletions

### Summary of items in this proposed Amendment requested by MCSSS to the Water and Sewer Plan Ten-Year Update:

- 1) Only septic systems that have documented failures or potential problems for which on-site solutions have been exhausted, are eligible for:
  - a) triggering a septic survey;
  - b) inclusion in a survey; or
  - c) consideration for a category change recommendation.
- 2) Replace "anticipated" health problem with "potential" health problem
- 3) Revise definition of "existing public health problems."
- 4) Replace "major" and "significant" problem with "potential" problem as one of the conditions that make a property eligible for triggering a septic survey, inclusion in a survey, or consideration for a category change;
- 5) Remove distinction between within and outside the Planned Community Service Envelopes.
- 6) Do NOT grandfather evaluation criteria for the North Potomac Highlands Septic Survey.

The detailed text edits to achieve these six items are provided below.

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## CHAPTER 1 II.: POLICIES FOR THE PROVISION OF WATER AND SEWERAGE SERVICE

Starting on draft page 1-24. **Added as we discussed on 8/1.**

### II.E.1.: Development Plan Review

The M-NCPPC Development Applications & Regulatory Coordination Division manages the County's Development Review Committee (DRC), an interagency group which meets regularly to review and evaluate proposed development plans. DEP is the lead agency in the DRC with regard to water and sewer service planning issues. DEP staff report to the DRC on the consistency of the water and sewer service components of development proposals with respect to the County's Water and Sewer Plan. In order for a development proposal to proceed to the Planning Board for consideration, DEP staff need to confirm for M-NCPPC the consistency of the development plan with the policies and service area designations in the Water and Sewer Plan. DPS and WSSC staff also participate in this process with a focus on on-site and community water and sewerage systems design, respectively.

- ▶ **Note that certain service policies in this Plan limit or restrict the provision of community service to:**
- **The use of specific cluster development options (RE-1, RE-2C, and RNC Zones, for example).**
  - **The use of TDR development options (RE-1 and RE-2 Zones, for example).**
  - **The development of specific uses, such as for private institutional facilities (PIFs).**
  - **A single water or sewer hookup only for a property and may further restrict the subdivision of such properties from more than one building lot where using community service.**

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 2

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Starting on draft page 1-34.

### II.G. Special Policies for Water and Sewer Service

*The following text replaces the original Section II.G.2. A step-by-step accounting of the changes included here was becoming unduly complicated. I propose that we include the whole of this rewrite, based on the T&E's recommendations into the update document. I think that this addresses all of your points in your email included on page 1.*

#### ▶ II.G.2.: Community Service to Relieve Public Health Problems

Existing or anticipated potential public health problems can result from problems with individual, onsite water supply or wastewater disposal systems, including the failure of those systems. Onsite systems usually—but not exclusively—serve properties located outside the planned community service envelopes, where development is intended for service using wells and septic systems. This is consistent with the planning for and designation of lower-density residential, rural, and agricultural areas.

As a result, most properties using individual, onsite systems are often in areas where relief of health problems using community service is neither logical nor economical. In these cases, first consideration for relief of an existing or anticipated potential health problem will focus on onsite mitigation measures. A feasible onsite remedy must satisfy onsite systems permitting requirements, as verified by DPS. However, some existing or anticipated public health cases do occur in areas within or near areas served by community systems. Issues involving problems with and failures of individual water supply and sewerage systems are addressed in more detail in Section III.C.4.a.

Note that DEP may only make sewer category change recommendations for properties with existing or potential health problems when the onsite system failure or potential problem cannot be addressed by using conventional replacement systems (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets).

#### II.G.2.a.: Single Property Public Health Problems

In the majority of onsite systems failures reported to DPS, relief is provided by an onsite repair or replacement. However, community water and/or sewer service may be provided recommended to an improved property to resolve an existing or anticipated potential public health problem, upon certification of that problem by the Director of DPS or a designee, if the following conditions are met: in cases involving septic systems, DPS must determine that the onsite system failure or potential problem cannot be addressed by using conventional replacement systems (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets). If a water or sewer main extension is required or if the availability of service is unclear, DEP, in coordination with WSSC, will evaluate whether the provision of community service is feasible. In cases where DEP determines that the provision of community service is not feasible, DEP will report this back to the DPS Well and Septic Section. DPS then determines the best possible onsite solution for the health problem. Note that the State of Maryland, typically through MDE, may also direct the use of community service to relieve a public health problem.

[Unless a case requires consideration by the County Council, DEP may direct WSSC to begin and expedite the process to provide community service regardless of the existing service area category. The utility does not need to wait for the County to grant a service area change approval to plan, design, and implement community service. DEP will follow up this action with the needed category change through the administrative delegation process.] All category changes require consideration by the County Council. The inability of an unimproved

**Comment [K1]:** Eliminate the use of the term "anticipated" to avoid any possible confusion with how the term "anticipated" was used in the past. As previously defined, this term has been discredited as a valid justification for granting a category change.

**Comment [K2]:** Delete since irrelevant.

**Comment [K3]:** This heading was changed from last revision.

**Comment [K4]:** Since "major problem" is used in II.G.2.b, and "significant problem" is used in Appendix C, II.E, both of which are distinct from an actual failure, standardize on "potential problem". As an example, a high-water level in a septic tank may not be either a "significant" or "major" problem if caused by overloading due to inappropriate simultaneous water usages.

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 3

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property to allow for a permitted septic system does not provide justification to allow the provision of community service to that property alone under this policy.

In cases addressed by this policy, community service will **generally** be limited to a single water and/or sewer hookup for existing properties. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

**Within the planned community service envelopes**, where DPS determines that an existing or anticipated health problem from an existing onsite system occurs, the property involved may already have a category 1 or 3 service area designation. This allows WSSC to proceed with expediting the provision of community service. However, where a property lacks an appropriate category designation for community service, DEP may direct WSSC to proceed with the provision of service, as explained previously. Because the provision of community service is for a property located within an area already planned for community service, DEP may act to approve related service area changes through the administrative delegation process, under the "Consistent with Existing Plans" policy, Section V.D.2.a.

**Comment [K5]:** Eliminate this new (as of 4/17/2018 Analyst Packet) distinction between Within and Outside the planned community service envelope.

**Outside the planned community service envelopes**, first consideration for relief of an existing or **anticipated potential** health problem will focus on onsite mitigation measures. However, some cases occur where DPS determines that onsite measures cannot relieve the problem. In addition, some cases occur where community service is **readily available**, abutting **or in close proximity to** the affected property. In these cases, the provision of community service can be accomplished using an abutting **or non-abutting** service connection, without the need for a new main extension.

**Comment [K6]:** Irrelevant.

**Comment [K7]:** Irrelevant.

In cases involving documented, existing health problems, with **readily available** abutting community service, DEP may act to approve related service area changes through the administrative delegation process, under the "Community Service for Public Health Problems" policy, Section V.D.2.a. Otherwise, existing or **anticipated potential** health problems **found outside the planned community service envelopes when the onsite system failure or potential problem cannot be addressed by using conventional replacement systems (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets), [and related] for which DEP recommends** service area category changes will be addressed by the County Council. Note that DEP may only make sewer category change recommendations for properties with **existing or potential health problems when the onsite system failure or potential problem cannot be addressed by using conventional replacement systems (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets).** Depending on the circumstances affecting such cases, the County Executive, **citizens, or groups** may transmit appropriate recommendations to the Council outside the usual **semi-annual** **quarterly** cycle of Plan amendments.

**Comment [K8]:** Irrelevant

In areas planned to use onsite water and/or sewer systems, the County's decisions to provide public water and/or sewer service and approval for related service area changes are not intended to change existing development patterns originally based on the suitability of onsite systems use. To this end, properties outside the planned service envelopes cannot be subdivided into more than one lot where approved for public water and/or sewer service due to the identification of an existing or **anticipated potential** public health problem.

### II.G.2.b.: Area-Wide Public Health Problems

In some circumstances, the number and/or the pattern of health problem cases **or potential public health problems** will indicate a **potential** problem on a broader-scale than just an isolated, individual case. A function of this Plan is to identify, as necessary, larger-scale, **chronic existing** public health problem areas and to recommend solutions for those problems. Upon the approval of the County Council, community water and/or

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 4

Underscored Text Proposed Additions Bracketed Text or Strikethrough Text Proposed Deletions  
▶ Added/Revised Following 7/16/18 T&E Meeting Blue Highlighted Text Revisions to Keith's Edits  
Green Underscored Text MCSSS Proposed Additions Green Bracketed Text or Green Strikethrough Text MCSSS Proposed Deletions

sewer service may be approved for a defined special water or sewer service area as defined in the Glossary to resolve area-wide existing or anticipated potential public health problems. All recommended special service areas for area-wide public health problems and related service area category map amendments require consideration and approval by the County Council.

The County's designation of a special community service area will allow property owners within these communities to take advantage of WSSC's expedited service process and main construction subsidies. Individual properties within an existing or pending special service area that are identified by DPS as public health problems may still be addressed using the procedures outlined in Section II.G.2.a., above.

In addition to onsite systems survey requests from individual property owners (see outside the planned service envelopes, below), DPS may also identify and recommend to DEP potential onsite systems survey areas per the rules below.

The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

Within planned community service envelopes, the need for onsite system surveys for properties is limited as the area involved is already intended for community service. Surveys are sometimes done to establish an area eligible for public health subsidies from WSSC to help cover the cost of the extension of a water/sewer main.

Outside planned public water or sewer service envelopes, if individual, onsite systems surveys are typically initiated by an individual property owner, or a group of owners, who identify an area of concern for DEP to investigate. Onsite system surveys are limited to cases involving At least one property owner[s] requesting a survey that must demonstrate that the existing onsite system has either failed or suffers from major potential problems as defined in the Glossary, as verified by DPS. DPS must also find that the onsite system problem cannot reasonably be resolved by an onsite repair or replacement of that system.

The inability of an unimproved property to allow for a permitted septic system does not provide a property owner with justification to request an onsite system health survey. DEP may include unimproved properties within a survey area as appropriate, except where an unimproved property is at the outside limit of a survey area.

In cases involving septic systems, DPS must determine that the onsite system failure cannot be addressed reasonably by using a conventional replacement system (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets). Note that in the case of septic systems, reasonable relief methods do not include the use of a holding tank except as requested by the property owner for financial reasons, for example. This may require an onsite system inspection by a qualified contractor. A previous inspection may also satisfy this requirement, if acceptable to DPS. Owners of unimproved properties that have no septic system suitability do not have sufficient justification to initiate a sanitary survey.

In areas planned to use onsite water and/or sewer systems, the County's establishment of special public service areas and approval for related service area changes are not intended to change existing development patterns based originally on the suitability of onsite systems use. To this end, properties outside the planned service envelopes cannot be subdivided into more than one lot where approved for public water and/or sewer service through the designation of health problem special service areas.

### II.G.2.c: Individual Onsite Systems Surveys

Once DEP accepts qualified properties for an onsite systems survey, identifies properties with existing onsite systems with either failed systems or potential problems which cannot be resolved by an onsite repair or replacement, as verified by DPS, staff will evaluate conditions of other adjacent and confronting properties in

**Comment [K9]:** This was added by staff without a change indicator (underlined yellow). This change is not acceptable. There is no reason for an expedited process or subsidies.

**Comment [K10]:** Eliminate this new (as of 4/17/2018 Analyst Packet) distinction between Within and Outside the planned community service envelope. Plus, the survey process is not even provided.

**Comment [K11]:** Eliminate this new (as of 4/17/2018 Analyst Packet) distinction between Within and Outside the planned community service envelope.

**Comment [K12]:** Since "'major problem" is used in II.G.2.b, and "significant problem" is used in Appendix C, II.E, both of which are distinct from an actual failure, standardize on "potential problem". As an example, a high-water level in a septic tank may not be either a "significant" or "major" problem if caused by overloading due to inappropriate simultaneous water usages.

**Comment [K13]:** This is NEVER appropriate and is a give-away to land speculators.

**Comment [K14]:** "Reasonably" is a subjective criterion. Subjective criteria must be avoided to allow decisions to be made in a reproducible manner.

**Comment [K15]:** Per July 16, 2018 T&E Committee Packet

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 5

**Underscored Text** Proposed Additions **Bracketed Text** or **Strikethrough Text** Proposed Deletions  
▶ Added/Revised Following 7/16/18 T&E Meeting **Blue Highlighted Text** Revisions to Keith's Edits  
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the immediate vicinity for possible inclusion in the survey area. DEP considers factors such as zoning, lot size, and onsite system age, among others. These adjacent or confronting properties require DPS documentation that they have a documented failure or potential problem, for which DPS has determined cannot be addressed by the on-site remedies listed above in section II.G.2.b. Based on this evaluation, DEP will formally conditionally designate an onsite systems survey area. Thus, only properties with a documented failure or potential problem, for which DPS has determined cannot be addressed by the on-site remedies listed above, can be part of the survey. DEP cannot require the owners of properties that DEP has conditionally added to a survey area to conduct septic system inspections. However, if DEP determines that a septic survey inspection or soil test is required and the owner refuses, that property cannot be part of the survey.

**Comment [K16]:** "Immediate vicinity" is subjective and thus non-reproducible.

**Comment [K17]:** Too vague, and could include bogus factors such as high-level USDA soil types as was done in Glen Hills.

Once DEP conditionally establishes an onsite systems survey area, staff will notify all property owners of the beginning of the survey process. At this point, any owner may choose to formally withdraw a property from inclusion in the survey. Withdrawal of a property requires a written and signed notification from the owner to DEP. Likewise, inclusion of a property in the survey requires a written and signed notification from the owner to DEP. Once withdrawn from a survey, the subject property will not be recommended for inclusion in either any special service area or related service area category change recommendations. Note that DEP may only make sewer category change recommendations for properties with existing or potential health problems when the onsite system failure or potential problem cannot be addressed by using conventional replacement systems (deep trench, shallow trench, or sand mound), by innovative and alternative onsite replacement systems, or by new technologies as they are approved for use by the State and County (e.g. graywater systems and waterless toilets). However, DEP may NOT use and present the results of the research gained for withdrawn properties as part of the overall survey evaluation.

DEP and DPS expect that all property owners choosing to participate in an onsite systems survey will provide access to their properties for purposes of a site assessment and/or soil test. DEP and DPS staff will contact owners in advance of a scheduled site visit and/or soil test. Staff will not pursue a site visit and/or soil test from those owners who choose to withdraw from the survey.

The anticipated time frame for an onsite system survey starts with DEP's designation of a well or septic system survey area and concludes with MDE's decisions concerning the County Council's action regarding the survey results and recommendations. This process is generally expected to take no more than one year, depending on agency workload, including work on other onsite system surveys. An exception to this schedule is for surveys in the Glen Hills Study Area where research conducted for the Glen Hills Area Sanitary Study already provides some background information concerning existing conditions. For those areas of Glen Hills that qualify as "higher priority areas" (see Appendix C, pg. C-4), the schedule for transmittal of an Executive recommendation to the Council is three (3) months after DEP's designation of the survey area.]

**Comment [K18]:** Delete since no lot-by-lot soil testing was done as recommended by the Glen Hills Area Sanitary Study.

Standard procedures for onsite system surveys are available on DEP's website at [Private Well and Septic Systems | Department of Environmental Protection, Montgomery County, MD](#).

Starting on Draft page 1-34. Realized that the revisions to Appendix A (Glossary) addressing existing and anticipated health problems were nearly duplicating text in this section, setting up potential conflicts if the wording didn't match. The following is pared down as a result, letting the more-detailed discussion in the Glossary.

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 6

Underscored Text Proposed Additions      Bracketed Text or Strikethrough Text Proposed Deletions  
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Green Underscored Text MCSSS Proposed Additions      Green Bracketed Text or Green Strikethrough Text MCSSS Proposed Deletions

### III.: GENERAL POLICIES FOR WATER SUPPLY AND SEWERAGE SYSTEMS FACILITIES

#### III.C.: Individual Systems

##### III.C.4.: Individual Water and Sewerage Systems Problems

###### ▶ III.C.4.c.: Individual Systems and Public Health Problems

Public health problems (as defined in this Plan) can result from the failure ~~or anticipated failure~~ of existing individual onsite systems ~~for from the County's expectation that onsite systems will not be capable of providing adequate water supply or wastewater disposal service in the future.~~ Onsite system failures may result in problems that can affect public and environmental health due to contact with inadequately treated sewage or contaminated drinking water. Existing health problems resulting from onsite wells typically result from and inadequate water yield or groundwater contamination. Existing health problems resulting from onsite septic systems are typically characterized by inadequately treated sewage on the surface of a yard or backing up into a building. Additional information on these subjects is provided in the Glossary in Appendix A, page A-3.

**Comment [K19]:** Delete since County has abused this definition in the past in Glen Hills to allow category changes for properties with functioning septic systems – this violates the presumption for septic principle.

Existing Public Health Problems: Individual systems can fail due to causes such as age, damage, contamination, or insufficient maintenance. The following circumstances are among the most common that constitute an existing public health problem:

- ~~The presence of inadequately treated sewage rising to the surface of the ground or backing up into a building. Or an excessive need to pump out a septic system in order to keep the preceding from happening, usually on the order of several times in a year. Proper septic system operation typically requires tank pumping every two to five years for preventative maintenance.~~
- Evidence of a septic system discharging inadequately treated sewage into ground or surface waters. This includes problems such as drainfields constructed within the water table, constructed on fractured bedrock, and constructed with an overflow pipe that allows the surface discharge of inadequately treated sewage from the septic tank.
- A well with inadequate water quantity yield. (State minimum standard is 1 gallon per minute.)
- A well with inadequate water quality, resulting from either an inflow of surface water or contamination of the groundwater source.
- A well that does not satisfy current regulatory standards, including hand-dug wells, wells without adequate sleeves/casing, etc. A structural failure of the well may result, such as a side wall collapse.

Anticipated Public Health Problems: The expectation that existing onsite wells and/or septic systems cannot be replaced and will not support existing development once they fail can present anticipated public health problems. Early identification of areas or neighborhoods where these conditions exist may result in corrective measures that will prevent actual individual systems failures that will result in health problems.

Health Problem Relief Measures: Typically, properties served by individual systems are located in low-density development areas where access to community systems is not considered logical or economical compatible with County smart growth initiatives or Master Plans in these areas. On-site sewage treatment systems are compatible with and supportive of low-density areas, whereas public sewer lines promote sprawl and urbanization by enabling higher densities. The resulting increased impervious surfaces promote increased stormwater runoff that degrades streams with sediment and contaminants which damage clean water supplies. In addition, WSSC sewer lines have spilled over 9 million gallons of raw sewage in three years (2015-2017).

In many cases of individual system failures reported to DPS, relief is provided by an onsite repair or replacement, rather than by community service. However, in some cases where individual systems have failed, owners may not be able accomplish a repair or replacement consistent with current regulations, as determined by DPS. Changes to individual systems regulations over the past decades have resulted in improved standards for human and environmental health. However, these regulatory changes can have the potential to hinder efforts to replace existing individual systems with new systems that satisfy current standards. In addition, new

**Comment [KB20]:** <https://www.wsscwater.com/customer-service/emergency-sewerwater-problems/sanitary-sewer-overflow-reports.html>



## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 7

Underscored Text Proposed Additions      Bracketed Text or Strikethrough Text Proposed Deletions  
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Green Underscored Text MCSSS Proposed Additions      Green Bracketed Text or Green Strikethrough Text MCSSS Proposed Deletions

technologies such as sand mounds have now made it more possible to replace existing individual systems with new systems that function properly. Section II.G.2. of this chapter discusses the conditions where community service [can] might be used to relieve public health problems resulting from individual systems failures.

Starting on Draft page 1-74. As we discussed on 8/1.

### V. PROCEDURES FOR ADOPTING AND AMENDING THE WATER AND SEWER PLAN

#### V.E.3: Deferred Amendments

A deferral action places the County's consideration of a proposed Plan amendment on hold pending the completion of some other action. Actions that defer Plan amendments must clearly state the reason for deferral and what action or milestone is needed in order to reconsider the amendment. A deferral may result from the need for additional information which is not readily available to properly evaluate an amendment. A deferral can also occur to allow another process, such as a master plan or rezoning case, to proceed before making a decision on the amendment.

...

#### Process Options Following Deferral

Upon resolution of the reason for a deferral, an amendment may be brought back for further consideration by the Council. To promote an orderly public process, whenever possible a previously deferred amendment should be submitted resubmitted to the Council as part of a [semiannual] quarterly amendment packet from the County Executive.

If a previously deferred amendment is re-submitted to the Council outside of the Executive's [semiannual] quarterly amendment transmittal process, then the Council shall proceed according to the following processes, as appropriate:

- *Deferred Amendments with Significant Changes:* If the details of the proposed amendment have changed (for example, the proposed water or sewer extension is changed significantly, defined as ???? or the proposed use of the property to be served has changed) since the item last went to public hearing, then the Council must hold a new public hearing for the amendment. The Council must provide at least [15] 30 days' notice to the reviewing agencies: DEP, DPS, WSSC, M-NCPPC, and MDE, and to all parties that submitted either oral or written testimony on the amendment at the Council's prior public hearing and to all parties that have registered their interest in Water & Sewer Plan amendments (such as via the Paperless Airplane). The Council must also advertise the public hearing at least [15] 30 days before the public hearing date. The Council may schedule a committee or Council worksession on the item to occur any time after the public hearing. However, the meetings must be listed on the Council or Committee agenda at least [ten] thirty days before the worksession.

Comment [K21]: Defined how?

### APPENDIX A: GLOSSARY

Starting on draft page A-3.

Failed Systems (e.g., Failed Septic System): see Existing Public Health Problems

Feasible on-site remedy: define

#### **Municipal Well**

A groundwater well that provides water for a community water supply system. In Montgomery County, only the Town of Poolesville uses municipal wells to provide a potable water supply to its customers.



## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 8

**Underscored Text** Proposed Additions **[Bracketed Text]** or **[Strikethrough Text]** Proposed Deletions  
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### Public Health Problems – Existing and **[Anticipated]** Potential

Individual, onsite wells and septic systems can fail due to causes such as age, damage, contamination, or insufficient maintenance. Failures may result in problems that can affect public and environmental health due to contact with inadequately treated sewage or contaminated drinking water.

**Existing Public Health Problems (also referred to as Failed Systems):** As stated in section III.C.4.c, onsite system failures may result in problems that can affect public and environmental health due to contact with inadequately treated sewage or contaminated drinking water. The following circumstances are among the most common that constitute an existing public health problem:

- The presence of inadequately treated sewage rising to the surface of the ground or backing up into a building. Proper septic system operation typically requires tank pumping every two to five years for preventative maintenance. ▶ **An excessive need to pump out a septic system in order to keep the preceding from happening, usually on the order of several times in a year can also signal a septic system failure. Other excessive actions indicating a septic failure may include curtailing the use of laundry and/or bathroom facilities to prevent overflows or backups.**
- Evidence of a septic system discharging inadequately treated sewage into ground or surface waters. This includes problems such as drainfields constructed within the water table, constructed on fractured bedrock, and constructed with an overflow pipe that allows the surface discharge of inadequately treated sewage from the septic tank.
- A well with inadequate water quantity yield. (State minimum standard is 1 gallon per minute.)
- A well with inadequate water quality, resulting from either an inflow of surface water or contamination of the groundwater source.
- A well that does not satisfy current regulatory standards, including hand-dug wells, wells without adequate sleeves/casing, etc. A structural failure of the well may result, such as a side wall collapse

**[Anticipated Public Health Problems]:** The expectation that existing onsite wells and/or septic systems cannot be replaced and will not support existing development once they fail can present anticipated public health problems. Early identification of areas or neighborhoods where these conditions exist may result in corrective measures that will prevent actual individual systems failures that will result in health problems.

**Potential Public Health Problem (in reference to a septic system with a potential problem):** a condition that exists when the public cannot yet be exposed to, or come in direct contact with, inadequately treated sewage. For this condition to be validated, the Department of Permitting Services (DPS) certifies that an objective, observable warning sign indicates that failure is likely to occur in the near term. This warning sign is defined as follows: the septic tank requires pumping more than four times a year, as certified by DPS, to resolve situations where the static level in the septic tank rises above the level of the inlet and/or outlet pipe. Such a potential problem may not always indicate the eventual failure of a septic system. For example, the problem may be temporary in nature if caused by overloading due to inappropriate, simultaneous water usages. Note that this definition of a potential public health problem, or a septic system with a potential problem, is based upon an observable, objective, repeatable, and documentable condition based upon knowledge of the proper functioning of septic systems.

**Potential problem with a septic system:** one that causes a potential public health problem (see: Potential Public Health Problem)

**Comment [K22]:** Eliminate the use of the term "anticipated" to avoid any possible confusion with how the term "anticipated" was used in the past. As previously defined, this term has been discredited as a valid justification for granting a category change.

**Comment [K23]:** Move to "Potential Public Health Problem" since no "contact with inadequately treated sewage" is involved.

**Comment [K24]:** Eliminate the use of the term "anticipated" to avoid any possible confusion with how the term "anticipated" was used in the past. As previously defined, this term has been discredited as a valid justification for granting a category change. Plus, the use of this definition was rejected in the 7/16/2018 T&E Committee Meeting. Replace with "potential".

**Comment [K25]:** This definition was partially informed by the Massachusetts Department of Environmental Protection, <https://www.mass.gov/files/documents/2017/09/27/310cmr15.pdf>, (p.77/97):

Code of Massachusetts Regulations (CMR); 310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION; 310 CMR 15.000: THE STATE ENVIRONMENTAL CODE, TITLE 5: STANDARD REQUIREMENTS FOR THE SITING, CONSTRUCTION, INSPECTION, UPGRADE AND EXPANSION OF ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS AND FOR THE TRANSPORT AND DISPOSAL OF SEPTAGE

**Comment [K26]:** Since "major problem" is used in II.G.2.b, and "significant problem" is used in Appendix C, II.E, both of which are distinct from an actual failure, standardize on "potential problem". As an example, a high-water level in a septic tank may not be either a "significant" or "major" problem if caused by overloading due to inappropriate simultaneous water usages.

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 9

**Underscored Text** Proposed Additions **Bracketed Text** or **Strikethrough Text** Proposed Deletions  
▶ Added/Revised Following 7/16/18 T&E Meeting **Blue Highlighted Text** Revisions to Keith's Edits  
**Green Underscored Text** MCSSS Proposed Additions **Green Bracketed Text** or **Green Strikethrough Text** MCSSS Proposed Deletions

**Special service area (also called a special community service area or special water or sewer service area): add definition**

Sanitary District

...

### APPENDIX C

Starting on draft page C-4. **Revisions resulting from other changes by the T&E. Also, some minor editing.**

II.E: Glen Hills Study Area

#### **DELETE BELOW**

**[Sewer Service Policy Area: Established by Council Resolution No. 18-423 (3/8/16)**

**Subject Area: Residential development zoned RE-1 as identified in the Glen Hills Area Sanitary Study.**

**Service Recommendation & Comments: In March 2016, the County Council adopted Resolution No. 18-423 that established sewer service policies for the Glen Hills area, as shown below (see Figure C-F4). These service policies resulted from a study of general septic system suitability in the area conducted by DEP. This study had been recommended by the 2002 Potomac Subregion Master Plan. Pending the Council's consideration of the study's results, the provision of new community sewer service in the Glen Hills area was limited to properties with septic system failures documented by DPS.**

**The Council's 2016 resolution established the following sewer service policies for the study area:**

- **Individual, on-site septic systems are the primary wastewater disposal method consistent with the area's standard-type development under the RE-1 Zone.**
- **Community sewer service can be considered only under the following conditions for:**
  - **Properties in need of relief from public health problems resulting from documented septic system failures (Sections II.G.2.a.).**

**Properties included within a specifically designated special sewer service area (Sections II.G.2.b.). The septic system survey process used to establish these areas is outlined in the Council's resolution and in Chapter 1, Section II.G.2.b: Area-Wide Public Health Problems. The research conducted for the Glen Hills Area Sanitary Study will allow DEP to streamline the survey process for properties in these neighborhoods. Once DEP has established a survey area, an Executive recommendation for the Council concerning that area is expected within approximately three (3) months. A decision by the Council is generally expected within three months after that.**

**DEP will give a higher priority for surveys that include properties located within Review Areas (RAs) established in the Glen Hills Study and those with documented septic system problems. DEP will give a lower priority to survey areas outside of RAs or where DPS has not identified existing septic problems.**

**The County has approved one special sewer service area in Glen Hills for part of the South Overlea Drive Septic Survey Area. The County Council under CR 18-888 (July 25, 2017) acted to include 16 of 24 properties surveyed by DEP and DPS within a special sewer service area.**

**▶ The County Council's 2018 action to approve this Plan update changed the County's approach to the consideration of area-wide health problems where located outside the planned community service envelope. Establishing a septic system survey requires the inclusion of at least one property that has a DPS-documented septic system failure or significant problem (see Chapter 1, Sections II.G.2.b. and c.) Properties recommended for inclusion in a special sewer service area must also have documented septic system**

Comment [27]:

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 10

**Underscored Text** Proposed Additions      **Bracketed Text** or **Strikethrough Text** Proposed Deletions  
▶ Added/Revised Following 7/16/18 T&E Meeting      **Blue Highlighted Text** Revisions to Keith's Edits  
**Green Underscored Text** MCSSS Proposed Additions      **Green Bracketed Text** or **Green Strikethrough Text** MCSSS Proposed Deletions

~~failures.~~

- o Properties that abut existing or planned sewer mains and that satisfy the requirements of the "abutting mains" policy (Section II.G.3.)
- o Properties at the edge of the Potomac Master Plan planned public sewer envelope, that abut and/or confront properties within the envelope, consistent with the Potomac area peripheral sewer service policy. (Consistent with this policy however, properties at the periphery of the planned sewer envelope within the Piney Branch watershed are excluded.) *Note that this service condition was subsequently added to the Glen Hills study area in 2018 by the County Council's action to approve this update of the Plan.*
- o Properties within the study area and within the Piney Branch subwatershed that satisfy the requirements for community sewer service under the Piney Branch restricted sewer service policy (Section II.G.11.b.)

▶ ~~Property owners~~ Applicants shall not use the provision for a single sewer hook-up under any of the four Glen Hills area sewer policy provisions cited above to support subdivision or resubdivision of these existing properties into more than one lot.

**DELETE ABOVE**

### **PROPOSED NEW RESOLUTION:**

Subject Area: Residential development zoned RE-1 as identified in the Glen Hills Area Sanitary Study.

Service Recommendation & Comments: The March 2016 County Council Resolution No. 18-423 that established sewer service policies for the Glen Hills area is hereby amended as follows. These service policies had resulted from a study of general septic system suitability in the area conducted by the AMT company for DEP. This study had been recommended by the 2002 Potomac Subregion Master Plan. Pending the Council's consideration of the study's results, the provision of new community sewer service in the Glen Hills area was limited to properties with septic system failures documented by DPS.

This 2018 amended resolution establishes the following sewer service policies for the Glen Hills study area.

- Individual, on-site septic systems are the primary wastewater disposal method consistent with the area's standard-type development under the RE-1 Zone.
- Community sewer service can be considered only under the following conditions for:
  - o Properties in need of relief from public health problems resulting from documented septic system failures and procedures (Sections II.G.2.a.)
  - o Properties included within a specifically designated special sewer service area (Sections II.G.2.b.). The septic system survey process used to establish these areas is outlined in Chapter 1, Section II.G.2.b: Area-Wide Public Health Problems. Acknowledging that the entire basis for special treatment for the Glen Hills area was based on bogus logic and assumptions since no lot-by-lot soil testing was done as recommended by the Glen Hills Area Sanitary Study, future surveys in the Glen Hills area will be conducted as in Chapter 1, Section II.G.2.b. All surveys initiated after the South Overlea Drive Septic Survey (such as the North Potomac Highlands Septic Survey) will be evaluated for possible category change recommendations according to Chapter 1, Section II.G.2.b. Surveys initiated after the South Overlea Drive Septic Survey and any surveys currently in process will NOT be grandfathered, i.e., will NOT be granted category changes using any previous process and rules.

DEP will NOT give a higher priority for surveys that include properties located within Review Areas (RAs) established in the Glen Hills Study. DEP will give a higher priority to those with

## Montgomery Coalition to Stop Sewer Sprawl (MCSSS)

Proposed Amendment requested by MCSSS to the Water and Sewer Plan Update: Revisions to Council Staff draft of 8/24/18: "Health & Other Policy Updates (Post 7/16/18 T&E Meeting)"

Page 11

Underscored Text Proposed Additions Bracketed Text or Strikethrough Text Proposed Deletions

▶ Added/Revised Following 7/16/18 T&E Meeting Blue Highlighted Text Revisions to Keith's Edits

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documented septic system problems that cannot be addressed on-site per section II.G.2.b., DEP will give a lower priority to survey areas outside of RAs or where DPS has not identified existing septic problems.

The County has approved one special sewer service area in Glen Hills for part of the South Overlea Drive Septic Survey Area. The County Council under CR 18-888 (July 25, 2017) acted to include 16 of 24 properties surveyed by DEP and DPS within a special sewer service area. However, none of the 16 properties had any septic system problems – this is the reason for this amended 2018 resolution

The County Council's 2018 action to approve this Plan update changed the County's approach to the consideration of area-wide health problems. (See Chapter 1, Sections II.G.2.b. and c.)

- o (Consistent with this policy however, properties at the periphery of the planned sewer envelope within the Piney Branch watershed are excluded.) Note that this service condition was subsequently added to the Glen Hills study area in 2018 by the County Council's action to approve this update of the Plan.
- o Properties within the study area and within the Piney Branch subwatershed that satisfy the requirements for community sewer service under the Piney Branch restricted sewer service policy (Section II.G.11.b.)

Property owners shall not use the provision for a single sewer hook-up to support subdivision or resubdivision of existing properties into more than one lot.