

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**1997 Legislative Session**Bill No. CB-63-1997Chapter No. 47Proposed and Presented by Chairman (by request - County Executive)Introduced by Council Members Bailey and Del Giudice

Co-Sponsors

Date of Introduction July 8, 1997**BILL**

AN ACT concerning

Grading and Soil Erosion

For the purpose of removing obsolete terms, adding and clarifying definitions, reducing processing time for grading permits, amending the contents of the grading/site development plan, modifying procedures concerning the soils investigation report and procedures for denial of grading permits, amending time limits for such permits, amending bonding and site development requirements, requiring the submission of other applicable plans upon application for grading permits, and generally modifying provisions governing grading permits.

BY repealing and reenacting with amendments:

SUBTITLE 4. BUILDING.

Sections 4-111, 4-271, 4-272, 4-273,
 4-276, 4-277, 4-279, 4-281, 4-289,
 4-290, 4-291, 4-292, 4-293, 4-297, 4-300,
 4-303, 4-304, 4-305, 4-308, 4-309, and 4-310,
 The Prince George's County Code
 (1995 Edition, 1996 Supplement).

and,

BY adding:

SUBTITLE 4. BUILDING.

Section 4-311,

The Prince George's County Code

(1995 Edition, 1996 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 4-111, 4-271, 4-272, 4-273, 4-276, 4-277, 4-279, 4-281, 4-289, 4-290, 4-291, 4-292, 4-293, 4-297, 4-300, 4-303, 4-304, 4-305, 4-308, 4-309, and 4-310 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 4. BUILDING.

DIVISION 1. BUILDING CODE.

Subdivision 2. Amendments to the BOCA Code.

Sec. 4-111. Same; Section 107.0, Application for Permit.

(a) The following amendments, additions, and/or deletions are made to Section 107.0 of the BOCA Code:

* * * * *

(7) A new Subsection 107.10, titled "Chesapeake Bay Critical Area," is added to read as follows:

(A) Where the property is located within a Chesapeake Bay Critical Area Overlay Zone, a Conservation Plan and a Conservation Agreement prepared in accordance with the Conservation Manual shall be submitted for approval and, wherever grading or construction are proposed, shall include an approved technical erosion and sediment control plan and an approved stormwater design plan. Where the Subdivision Review Committee has not reviewed and the Planning Board has not approved the Conservation Plan and Conservation Agreement, these shall be transmitted in accordance with the Conservation Manual to the Subdivision Review Committee for its review and to the Planning Board for approval. The Planning Board shall approve the Conservation Plan and Conservation Agreement prior to the issuance of a building and/or grading permit, unless waived in accordance with the Conservation Manual. Where an

approved Conservation Plan and Conservation Agreement includes an approved technical erosion and sediment control plan and stormwater design plan, the Building Official shall ensure that permits issued are consistent with the approved Conservation Plan and Conservation Agreement. If an approved Conservation Plan and Conservation Agreement do not include a technical erosion and sediment control plan and a stormwater design plan, the Conservation Plan and Conservation Agreement shall be revised to include these approved plans prior to the issuance of a building or grading permit.

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DIVISION 3. GRADING, DRAINAGE, AND POLLUTION CONTROL.

Sec. 4-271. Definitions.

(a) Wherever the following words are used in, or in conjunction with, the administration of this Division, they shall have the meaning ascribed to them in this Section.

* * * * *

(18) **Director.** The Director of the Department of Environmental Resources or [his/her] the Director's designee.

* * * * *

(20.1) **Insignificant Drainage.** Surface drainage rates that do not exceed three (3) cubic feet per second.

* * * * *

(31) **Grading.** Any stripping, removing of topsoil, excavating, filling, stockpiling, or any combination thereof, including the condition resulting therefrom.

* * * * *

(41.1) **Ponding.** Water that remains on the ground surface in a single area larger than sixteen (16) square feet for more than forty-eight (48) hours after a rain event where cold weather conditions (such as, but not limited to, frozen ground or a combined ice, snow or rain event) are not a contributing factor in water remaining on the ground surface.

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(53) **Standards and Specifications.** The current version of the "[1983] Maryland Standards and Specifications for Soil Erosion and Sediment Control" [or any subsequent revisions] as adopted by the Prince George's Soil Conservation District.

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Sec. 4-272. Permits Required.

(a) Grading Permit. Except as exempted in Section 4-273, no person shall do, nor shall the owner permit, any site development or grading of land for any purpose[, including the removal of top soil, unless all work is in accordance with this Division and other Sections of this Code, and] without the owner of the said land first having obtained a grading permit from the Director.

* * * * *

(e) [The grading and site development required on a single lot or parcel, with the exception of single-family detached dwellings, where two (2) or more building permits are being issued shall conform to the provisions of this Division and may not be included as part of the building permit, in which case a separate grading permit is required.] With the exception of single family detached dwellings, a single grading permit is required for grading and other site development work on a single lot or parcel where two or more building permits are being issued.

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Sec. 4-273. Exceptions to Grading Permit.

(a) Provided all other provisions of this Division are met and excluding property located within a Chesapeake Bay Critical Area Overlay Zone, no grading or storm drain connection permit will be required under the following conditions:

* * * * *

(6) Grading, as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided:

(A) The aggregate of area(s) affected or bare-earthed at any one (1) time does not exceed [twenty seven hundred (2700)] five thousand (5000) square feet;

* * * * *

Sec. 4-276. Contents of Grading/Site Development Plan.

(a) In addition to the requirements and data listed in Section 107.0 of the BOCA Code as

amended by Section 4-111(a)(5) of this Code, plans and specifications accompanying the grading and/or combined grading and building permit application shall meet the requirements and show data as follows:

(1) Additional sets of prints shall be submitted in quantity as determined by the Director to coordinate the applied for permit issuance with collateral activities of all other County agencies. The paper size for plans shall not exceed 30" by 42".

* * * * *

(13) [A description and a clear and definite delineation of the interim (temporary) erosion and sediment control facilities and measures to be provided during the development of the entire site, or of each subdivision, thereof, as provided for in Section 4-299 of this Division.] Soil type as shown on the USDA Soil Survey of Prince George's County or soil type as determined by a professional engineer at the location of each proposed residential building.

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Sec. 4-277. Soils Investigation Report.

If class one (1) fill is proposed, the Director shall require a soils investigation report prepared and certified by a professional engineer duly registered in the State of Maryland to correlate surface and subsurface conditions with the proposed grading, site and building plans[; if]. If other than class one (1) fill is proposed, [he] the Director may require a soils investigation report depending upon slopes, anticipated characteristics of soil, drainage characteristics, and the like. The results of the investigation shall be presented in a report by a professional engineer which shall include, but need not be limited to, data regarding the nature, distribution, and supporting ability of existing soils and rock on the site and to conclusions and recommendations for grading requirements and erosion control including recommendations to insure stable soil conditions and groundwater control as applicable. The Director may require supplemental reports and data by an engineering geologist as might be deemed necessary. Recommendations included in such reports and approved by the Director shall be incorporated in the grading plan or specifications.

Sec. 4-279. Denial of Permit.

(a) General. Grading permits shall not be issued where the proposed grading would cause

hazards adverse to the public safety and welfare or violate the Code. If it can be shown to the satisfaction of the Director that any hazards caused can be essentially eliminated by the construction of retaining structures, buttress fills, drainage facilities, including furnishing of the necessary easements, the Director may issue the grading permit on the condition that such construction work be performed and after secured easements are [secured from others and/or] granted and recorded.

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Sec. 4-281. Development Bonds.

(a) In the evaluation of development sites, no permit for grading and/or site development disturbing [fifteen thousand (15,000) square feet or] more than one acre of the site shall be issued until the applicant (excepting County Government Departments and agencies, municipalities and/or municipal corporations for municipal-owned property), as principal, has posted a cash deposit or bond from an approved corporate surety or other collateral, including a certificate of guarantee pursuant to Section 2-463, if determined acceptable by the Director and by the County Attorney, to guarantee and assure that all work[, including afforestation and reforestation work required by the approved Tree Conservation Plan,] will be completed in accordance with the approved plans and the provisions of this Division.

(b) The cash deposit or bond shall be in the amount of [Two Hundred Dollars (\$200.00), plus ten] twelve cents [(\$0.10)](\$0.12) per square foot of total site area, minus that area to remain undisturbed and currently having an effective erosion-resistant ground cover or surface, plus thirty cents (\$0.30) per square foot of area to be afforested or reforested.

(c) No deposit or bond is required for a single permit for grading and other work disturbing less than [fifteen thousand (15,000) square feet] one acre. However, a cash deposit or bond is required for simultaneously applied for, or sequentially numbered permits for, work on contiguous lots or parcels with an aggregate disturbed area of [fifteen thousand (15,000) square feet or] more than one acre, or in those instances, in the determination of the Director, where individual permit applications necessitate the need for the posting of a bond. This exception to the bond requirement shall not be construed as an exception to the requirements for a permit.

(d) If all work authorized by the permit is not completed within the time specified therein or

as otherwise provided for in Section 4-289 of this Code or violates any other term or condition, the cash deposit shall be forfeited or, if a bond has been posted, payment in full to Prince George's County will be ordered. The funds, so received, will be used by the County for defraying the cost of contracting, including engineering and administration, and for the completion of all work authorized by the permit per the approved plans, but no less than restoring the site to meet the minimum requirements of this Division with particular emphasis on stability, safety, drainage, vegetative cover, and erosion control. Any unused portion of monies forfeited will be returned. [If the foregoing cost exceeds the amount of deposit or bond, the permittee shall continue to be firmly bound under a continuing obligation for payment of all excess costs and expenses incurred by the County. Any unused portion of monies forfeited will be returned.] In the event that the entire amount of cash deposit or bond is expended, the permittee has a continuing obligation for payment of all additional monies required to complete the work. There is created a tax lien on the real property for monies expended by the County for the implementation of the plan. Upon certification from the County Attorney that a tax lien has been created, the amount of such lien shall be collected by the Director of Finance in the same manner as other County real estate taxes.

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Sec. 4-289. Time Limits.

(a) Generally. No grading or drainage system connection permits shall be issued for a period to exceed 5 years. The permittee shall fully perform and complete all of the work [required in the sequence] shown on the plans within the time limit specified in the permit. If no time limit is specified in the permit, the permit[tee] shall [complete all work within] be limited to a time period of one [hundred eighty (180) days](1) year after the date of the issuance of the permit. [No grading permit shall be issued for a period to exceed three (3) years, including renewals.]

[(b) Renewals of grading permit. If unable to complete the work within the specified time, the permittee shall, prior to the expiration of the permit, present in writing to the Director a request for renewal of the grading permit, setting forth the reasons for the requested renewal. If, in the opinion of the Director, such a renewal is warranted, he may grant additional time for the completion of the work. A maximum of two (2) renewals can be allowed. Renewals cannot

extend beyond the maximum three (3) year limit of the original permit. Renewal fees equal the difference between the current fee schedule (plus a three percent (3%) per year inflation factor since original permit issuance) and the amount of fees previously paid. Renewal applications will require agency approvals and plan certifications.]

[(c)](b) Extension. Prior to the expiration of a grading permit, the permittee may present a written request for an extension to the Director. If, in the opinion of the Director, an extension is warranted, a one-time extension, not to exceed [ninety (90) days] one (1) year, may be granted. [The Director may grant additional extensions not to exceed a total of one (1) year, and extension] Extension fees shall be calculated at the same rate as [renewal] permit fees, [unless the Director authorizes an adjustment] and based on the amount of site area that has not received a final inspection approval. The applicability of bonding requirements shall be adjusted accordingly.

Sec. 4-290. Inspection and Supervision.

(a) The Director shall inspect all work and shall require that the permittee furnish adequate supervision, testing, and compaction control [by a soil engineer] prepared and certified by a professional engineer duly registered in the State of Maryland for all class 1 and class 2 fills. Class 3 fill will usually not require this special inspection, testing, and compaction control, unless deemed necessary.

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Sec. 4-291. Reports.

(a) Periodic reports on land grading activities and the supervision, testing, and compaction control documenting the compaction and certifying the acceptability and location of all fills shall be submitted to the Director. Where so directed, an as-built plan and the reports shall include certification of the adequacy of:

- (1) Stripped areas and benched or keyed surfaces prepared to receive fills;
- (2) Removal of unsuitable materials;
- (3) Fill placement locations and depths;
- (4) Construction of erosion control facilities, drainage devices, buttress fills, subdrains, retaining walls, and other grading appurtenances; and
- [(4)](5) Elevations of all rough grading completed.

Sec. 4-292. Change of Ownership.

The transfer of ownership of [any] a site or any portion thereof by a permittee shall not relieve such permittee from any obligations under this Division. [In the event of such transfer, the permittee shall hereby be authorized to enter upon any site governed by a notice of violation issued hereunder, and irrespective of any consent given by the new owner.]

Sec. 4-293. Final Reports.

Upon completion of the work, the Director may require a report from a registered professional engineer, surveyor, or architect, [summarizing the locations and results of field and laboratory tests and the limits of the various classes of compacted fill on an "as-built" plan, and] certifying that [fill placement and compaction and other] all site work and facilities have been completed in accordance with the conditions of the permit, the approved plans and specifications, and with the minimum standards of this Division, with specific listing of all waivers as might have been approved.

Sec. 4-297. Site Grades.

(a) Site grades shall be adapted to established street grades and the topography, preserving to the extent feasible the natural contours, specimen trees, and terrain features.[: provided, however, that]

(b) Concentrated surface drainage from each lot or parcel shall discharge directly, or through no more than one (1) adjacent lot unless suitable easements are granted, to accommodate its flow into a publicly maintained drainage system, street, or continuously flowing natural watercourse. Easements may not be required if, in the opinion of the Director, it can be demonstrated by a Maryland registered professional engineer that the concentrated surface drainage is insignificant and/or will not adversely affect adjacent properties.

TABLE 24 -- Site Slope Limitations

<i>Feature</i>	<i>Max.</i>	<i>Min.</i>
Setback of Building from edge Building Pad or Shelf	--	10 ft.*

Slope of Pad or Shelf Away from Building, <u>Residential</u>	[--] <u>30" in 10'</u>	5" in 10' <u>**</u>
<u>Slope of Pad or Shelf Away from Building, All others</u>	--	5" in 10'
Yards or Lawns	[--] <u>3:1</u>	2 <u>1/2</u> %
Slope of Terraces, Slopes, or Banks, Residential	3 : 1	--
Slope of Terraces, Slopes, or Banks, all other	2 : 1	--
Side Slope of Swale or Ditch	3 : 1	10 : 1
Longitudinal Gradient of Sodded Swale or Ditch	[2 1/2] <u>4%</u> or <u>***</u>	[1 1/2] <u>2%</u>
Slope patios-longitudinal pitch (end to end) and lateral pitch (side to side) away from the building	1/4" in 12"	1/8" in 12"
Sidewalks, leadwalks, and driveways - lateral pitch (side to side) away from the building	1/2" to 12"	1/8" to 12"
Sidewalks, leadwalks, and driveways - longitudinal pitch (end to end) away from the building	[15] <u>12.5%</u>	1 %
Parking Lots and Areas	7%	1%

*Minimum from sides of single-family residences and from ends of a town house complex is four (4) feet.

** In the case of "wet soils" and high ground water conditions, the Director reserves the right to increase the slope ratio up to 8" in 10'.

***The slope that will yield a velocity no greater than four (4) feet per second.

(2) Exception. Slopes steeper than 3:1 may remain undisturbed and undeveloped when preserving a forested area, [providing a soils analysis reveals to the Director that the slopes will remain stable] however, a soils analysis may be required by the Director if the long term stability of the slope is in question.

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Sec. 4-300. Preparation of Ground.

(a) The entire area, or [of] each subdivision thereof, [as shown on the plans pursuant to item 11, Section 4-276,] included within the limits of proposed cut and fill shall be stripped with particular emphasis on the removal of all root mat, trash, organic matter, and otherwise objectionable, noncomplying, and unsuitable materials and soils. All previously placed uncontrolled fill shall be removed from areas to receive class 1, but may remain in class 3 fill areas, and if specially investigated and treated in class 1 or 2 fill areas.

* * * * *

(3) Natural and/or existing slopes steeper than five (5) horizontal to one (1) vertical shall be benched, or continuously stepped into competent materials prior to placing fill of any class. Fills toeing out on natural slopes steeper than four (4) horizontal to one (1) vertical shall not be made unless approved by the [Building Official] Director after receipt of a report by a soil engineer certifying that he has investigated the property, made soil tests, and that, in his opinion, such steeper slopes will safely support the proposed fill.

Sec. 4-303. Fill -- Materials.

(a) All class 1 and 2 fills shall consist of readily compactible soils meeting the following minimum requirements:

(1) No inclusions of ice or snow, organic or other deleterious materials subject to decay, and high shrink-swell soils shall be permitted.

* * * * *

[(c) Limits of area covered and finished surface elevations of each class fill placed shall be accurately determined and shown on the "as-built" plan, pursuant to Section 4-293.

(d)[c] The material must be free of contamination levels of any pollutant which is, or

may be considered to represent, a possible health hazard to the public or may be detrimental to surface or ground water quality, or which may cause damage to property or the drainage system.

Sec. 4-304. Fills -- Compaction.

(a) Each layer of class 1 and class 2 fills shall be compacted at optimum moisture content (plus or minus two (2) percentage points), and to a minimum of ninety-five (95) and ninety (90) percent, respectively, of maximum density as determined in the laboratory by [ASTM Test Method D-1557-78] the Standard Proctor Test (AASHTO T-99, ASTM D-698). Each layer of class 3 fills shall be compacted sufficiently to support customarily used tracked spreading equipment and upon completion to be stable and after planting to prevent erosion. Other methods of compaction that the Director deems appropriate and result in an equal or better quality of compaction for Class 1 and 2 fills may be accepted.

* * * * *

(2) In-place (field) density shall be determined in accordance with the ASTM Test Method D-1556-82E, D-2922-91 or AASHTO T-191-86, T-238-86.

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Sec. 4-305. Subgrade -- Compaction.

The top eight (8) inches of soil in cut, or the required class 2 fill sections to be used as subgrade for support of patios, building floor slabs, driveways, parking pads and lots, sidewalks, and other structures which would not be especially impaired by moderate settlement shall be compacted, or recompact, to at least ninety (90%) percent of maximum density as determined by [ASTM Test Methods D-1556-82E and D-1557-78 prior to pouring or laying and D-1557-78 prior to paving or surfacing] the Standard Proctor Test.

Sec. 4-308. On-site Drainage.

(a) The following provisions apply to the safe conveyance and disposal of drainage to prevent erosion and property damage.

* * * * *

(2) Ponding. Unless intended by design for water quality and quantity purposes, the [The] ponding of water shall not be permitted particularly above cut or fill slopes or on drainage terraces, nor shall new development cause water to be impounded on adjacent property.

Adequate drainage facilities shall be provided to prevent such ponding. Existing ponding (ponding not created by development) may remain in undisturbed, undeveloped, forested areas, unless it has objectionable effects.

(3) Drainage Terraces. Cut and fill slopes shall be terraced wherever the vertical interval (height) of any 2:1 slope exceeds twenty (20) feet; for 3:1 slope it shall be increased to thirty (30) feet; and for 4:1 to forty (40) feet. Benches shall be located to divide the slope face as equally as possible and shall convey the water to a stable outlet. Drainage terraces shall be a minimum of six (6) feet wide with an absolute minimum invert gradient of two percent (2%) and a maximum invert gradient of three percent (3%) unless accompanied by appropriate design and calculations, and with a ten to one (10:1) lateral slope toward the toe of the upper bank, and must convey water with minimum six (6) inch freeboard to a safe disposal area.

(4) Erosion Control. The permittee and the owner shall make adequate provisions to prevent any surface waters from materially damaging the face of any and all earth surfaces, excavation, or fill. All [and] such earth surfaces shall be temporarily and/or permanently protected from surface water runoff from above by interceptor and diversion berms, swales, brow or berm ditches, and shall be sodded, seeded, and/or planted unless, upon the recommendation of the Prince George's Soil Conservation District, the [Building Official] Director determines such treatment is unnecessary and specifically waives this requirement pursuant to Section 4-278.

Sec. 4-309. Completion of Site Development.

[(a) All s]Site development shall be completed in accordance with the approved plans prior to the Director granting occupancy of any building or structure on the site. The site work shall be completed prior to or at the same time as the completion of the buildings or structures. Adequate and acceptable completion of recreational facilities, landscaping, parking, parking lighting, retaining walls and other site work shall occur with the progress of the development of any project as determined by the Director. [, unless the completion of the site development is phased in accordance with this Division.

(b) The completion of all site development may be divided into no more than four (4) phases consisting of an approximate equal amount of building and site development in each phase.

(1) The Director may grant occupancy upon the completion of each building or structure, prior to the completion of site development, within the first phase.

(2) The Director may grant occupancy of each building or structure in succeeding phase(s) upon completion of all the site development in the preceding phase(s).

(3) The Director may grant occupancy of the last building or structure in the last phase upon completion of all site development.]

Sec. 4-310. Grading, Drainage, and Erosion Control Standards.

(a) The design, testing, installation, and maintenance of grading, drainage, and erosion control operations and facilities shall meet the minimum requirements set forth in the Standards listed herein.

(1) SOILS.

ASTM Standards, Volume 0408 Titled Natural Building Stones, Soil and Rock, by the American Society for Testing and Materials, Philadelphia.

ASTM Designation D-1556-82E, Density of Soil in Place by the Sand-Cone Method.

ASTM Designation D-[1557-78] 698-82E, Moisture-Density Relations of Soils and Soil Aggregate Mixtures Using [10] 5.5-lb. ([4.54] 2.50 kg) Rammer and [18] 12-in. (457 MM) Drop.

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SECTION 2. BE IT FURTHER ENACTED that Section 4-311 of the Prince George's County Code be and the same is hereby added:

SUBTITLE 4. BUILDING.

DIVISION 3. GRADING, DRAINAGE, AND POLLUTION CONTROL.

Sec. 4-311. [Reserved] Other plans.

The application for permit shall be accompanied by other plans required as determined by the nature and type of work proposed. These plans reflect the various types of work or conditions which may include, but are not limited to, the following types: landscaping, storm drain, stormwater management, preservation, conservation, mitigation and sediment and erosion control. These plans shall be subject to applicable review and approval criteria.

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 29th day of July, 1997.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.