

Introduction

MEMORANDUM

May 14, 2010

TO: County Council

FROM: Amanda M. Mihill, Legislative Analyst *AMihill*

SUBJECT: **Introduction:** Resolution to approve revisions to the Board of Appeals' Special Exception Filing Fees

The District Council is scheduled to introduce a resolution to approve revisions to the filing fees for special exception applications for the Board of Appeals. The proposed revisions generally increase the fee by ten percent. However, the fee for telecommunication facilities is increased by \$5,000 to be used by the Office of Zoning and Administrative Hearings for contract hearing examiners in response to a Federal Communications Commission declaratory ruling requiring jurisdictions to complete certain applications for these facilities in specific timeframes. The Council supported this increase as part of the Board's budget discussion. A public hearing and action on the attached resolution is tentatively scheduled for June 15, 2010 at 1:30 p.m.

<u>This packet contains</u>	<u>Circle</u>
Draft Resolution	1
Proposed Fee Increases	2
Memo from Board of Appeals	12

Resolution No.: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

SUBJECT: Revision to Board of Appeals Special Exception Filing Fees

Background

1. Subject to the approval of the County Council, the Board of Appeals may adopt rules of procedure to govern its proceedings. The Board's rules may govern filing fees, the conduct of meetings and hearings, and other procedures necessary to hear and decide cases.
2. The Board of Appeals has submitted for approval a revised special exception fee schedule.
3. The Council approved the last general revision to the special exception filing fee schedule on June 19, 2007.
4. On {date}, the County Council held a public hearing on the proposed revised special exception filing fee schedule.
5. On {date}, the County Council reviewed the proposed filing fee schedule.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

The attached fee schedule is established for filing a special exception application with the Board of Appeals.

<u>SECTION OF THE ZONING ORDINANCE</u>	<u>SPECIAL EXCEPTION USE</u>		<u>FILING FEE</u>
			Revised Fee
59-G-2.00.2	Abattoir	\$8,250.00	\$9,075.00
59-G-2.00	Accessory Apartment	\$250.00	\$275.00
59-G-2.00.1	Accessory Dwelling	\$1,375.00	\$1,512.50
59-G-2.00.3 -repealed	Adult Entertainment Business	\$20,625.00	\$22,687.50
	Airstrip	\$13,750.00	\$1,5125.00
59-G-2.00.4	Airstrip, associated with farms	\$4,125.00	\$4,537.50
59-G-2.54.1	Agricultural Processing, secondary	\$6,875.00	\$7,562.50
	Alcoholic Beverage Manufacturer	\$13,750.00	\$15,125.00
59-G-2.01	Ambulance or Rescue Squad – privately supported	\$2,062.50	\$2,268.75
	Amusement Center (see Recreation & Entertainment Establishments)		
59-G-2.02	Animal Boarding Place:		
	Up to 10 animals	\$2,062.50	\$2,268.75
	Over 10 animals	\$3,437.50	\$3,781.25
59-G-2.03	Animal Cemetery	\$6,875.00	\$7,562.50
59-G-2.04	Antique Shop	\$2,062.50	\$2,268.75
	Appliance Repair	\$3,437.50	\$3,781.25
59-G-2.05	Art or Cultural Center (non-commercial)	\$3,437.50	\$3,781.25
59-G-2.05.1	Auction Facility	\$11,000.00	\$12,100.00
	Auditorium or Convention Hall	\$8,250.00	\$9,075.00
59-G-2.06	Automobile Filling Station	\$13,750.00	\$15,125.00

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.07	Auto & Light Truck & Trailer Rental Lot – outdoor	\$8,250.00	\$9,075.00
	Auto Repair & Service – indoor	\$8,250.00	\$9,075.00
	Auto Repair & Service	\$8,250.00	\$9,075.00
	Auto Sales Lot – outdoor/indoor	\$8,250.00	\$9,075.00
59-G-2.08	Auto Storage Lot	\$4,125.00	\$4,537.50
	Auto Sales & Service Center		
59-G-2.09	Auto Truck & Trailer Rental Lot – outdoor	\$8,250.00	\$9,075.00
	Barber & Beauty Shop (see Retail Sales & Personal Services)		
59-G-2.09.2	Bed and Breakfast	\$550.00	\$605.00
59-G-2.09.1	Blacksmith	\$825.00	\$907.50
59-G-2.10	Boardinghouse	\$825.00	\$907.50
	Boat Repair & Service	8,250.00	\$9,075.00
	Boat Sales – indoors	8,250.00	\$9,075.00
	Bowling Alley (see Recreational & Entertainment Establishment)		
	Bus Terminal	\$13,750.00	\$15,125.00
59-G-2.10-1	Cable Communication System	\$20,625.00	\$22,687.50
59-G-2.11	Campground	\$13,750.00	\$15,125.00
59-G-2.11.1	Car Wash	\$8,250.00	\$9,075.00
59-G-2.11.2	Catering Facilities, outdoors	\$13,750.00	\$15,125.00
59-G-2.12	Cemeteries	\$13,750.00	\$15,125.00
59-G-2.12.1	Chancery and International Organization	\$8,250.00	\$9,075.00
59-G-2.15.1	Conference Center w/lodging	\$20,625.00	\$22,687.50
59-G-2.21	Charitable and Philanthropic Institution	\$6,875.00	\$7,562.50

③

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.13.1	Child Day Care		
	Non-profit -- over 30	\$3,437.50	\$3,781.25
	For profit -- over 30	\$4,125.00	\$4537.50
59-G-2.14	Clinic; Medical or Dental	\$8,250.00	\$9,075.00
59-G-2.15.2	Country Market	\$687.50	\$756.25
	Delicatessen (see Retail Sales or Personal Services)		
	Drugstore (see Retail Sales & Personal Services)		
	Dry Cleaning & Laundry, Pickup (see Retail Sales & Personal Services)		
59-G-2.36.2	Dwelling in Industrial or Commercial Zone (per unit)	\$687.50	\$756.25
	Eating and Drinking Establishment excluding drive-ins (see Retail Sales & Personal Services)		
59-G-2.16	Drive-in Restaurant	\$13,750.00	\$15,125.00
59-G-2.19	Educational Institution, Private		
	Up to 10 students	\$1,375.00	\$1,512.50
	11 to 40 students	\$3,437.50	\$3,781.25
	Over 40 students	\$6,875.00	\$7,562.50

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.13	Elderly Day Care:		
	Non-profit – up to 10	\$137.50	\$151.25
	11 to 20	\$275.00	\$302.50
	21 to 30	\$1,100.00	\$1,210.00
	Over 30	\$3,437.50	\$3,781.25
59-G-2.13	Elderly Day Care:		
	For profit – up to 10	\$687.50	\$756.25
	11 to 20	\$1,100.00	\$1,210.00
	21 to 30	\$3,437.50	\$3,781.25
	Over 30	\$4,125.00	\$4,537.50
59-G-2.43	Electric Power Transmission & Distribution Lines more than 69,000 volts (see Public Utility Building)		
59-G-2.49	Equestrian facility in a Residential Zone	\$687.50	\$756.25
59-G-2.49.1	Equestrian facility in an Agricultural Zone	\$4,125.00	\$4,537.50
59-G-2.21.2	Farm Machinery	\$4,125.00	\$4,537.50
	[Farm Market, Roadside	\$687.50	\$756.25
59-G-2.21.3	Farm Supply	\$4,125.00	\$4,537.50
59-G-2.21.4	Farm Tenant Mobile Homes – more than 1 – less than 4 per DU	\$1,375.00	\$1,512.50
59-G-2.22	Fertilizer Mixing Plants	\$8,250.00	\$9,075.00
	Florist (see Retail Sales & Personal Services)		
	Food & Beverage Store (see Retail Sales & Personal Services)		

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

	Fraternity or Sorority House	\$3,437.50	\$3,781.25
	Fuel Production as agriculture by-product	\$6,875.00	\$7,562.50
59-G-2.23	Funeral Parlor or Undertaking Establishment	\$8,250.00	\$9,075.00
	Furniture or Upholstery Repair Shop	\$4,125.00	\$4,537.50
59-G-2.24	Golf Course/Country Club	\$13,750.00	\$15,125.00
	Mini Golf	\$6,875.00	\$7,562.50
59-G-2.25	Golf Driving Range	\$6,875.00	\$7,562.50
59-G-2.25.1	Grain Elevator	\$6,875.00	\$7,562.50
59-G-2.26	Group Residential Facility – Exceptional Persons	\$550.00	\$605.00
59-G-2.26.1	Group Picnic, Catering and Recreation Facility in RDT zone (See outdoor catering)		
59-G-2.27	Heliports and Helistops	\$15,125.00	\$16,637.50
59-G-2.28	Highway Fuel and Food Service	\$13,750.00	\$15,125.00
59-G-2.29	Home Occupation, Major	\$550.00	\$605.00
59-G-2.30	Horticultural Nursery & Commercial Greenhouse	\$6,875.00	\$7,562.50
59-G-2.30.1	Hospice	\$1,100.00	\$1,210.00
59-G-2.31	Hospital	\$15,125.00	\$16,637.50
59-G-2.32	Hospital, Veterinary (see Veterinary Hospital)		
59-G-2.33	Hotels and Motels	\$20,658.00	\$22,723.80

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.35	Housing, Elderly & Handicapped		
	Non- Profit – per unit	\$137.50	\$151.25
	Minimum	\$1,100.00	\$1,210.00
	Maximum	\$8,250.00	\$9,075.00
	Commercial – per unit	\$137.50	\$151.25
	Minimum	\$8,250.00	\$9,075.00
	Maximum	\$20,658.00	\$22,723.80
	Laboratories, Medical & Dental	\$13,750.00	\$15125.00
59-G-2.30.00	Landscape Contractor (see Horticultural Nursery)		
59-G-2.35.1	Life Care Facility (see Housing, Elderly)		
59-G-2.30.00	Manufacture of Mulch/Composting	\$6,875.00	\$7,562.50
59-G-2.36.4	Meeting Centers for use of residents	\$1,375.00	\$1,512.50
59-G-2.36.1	Milk Plant	\$6,875.00	\$7,562.50
	Mobil Home, single wide, per unit	\$275.00	\$302.50
59-G-2.36.3	Newspaper, village	\$3,437.50	\$3,781.25
	Newsstand (see Retail Sales and Services)		
59-G-2.37	Nursing Home or Domiciliary Care Home		
	Non- profit – up to 5 persons	\$275.00	\$302.50
	6 to 20 persons	\$1,100.00	\$1,210.00
	20 to 40 persons	\$3,437.50	\$3,781.25
	over 40 persons	\$8,250.00	\$9,075.00
	Commercial – up to 5 persons	\$1,100.00	\$1,210.00
	6 to 20 persons	\$3,437.50	\$3,781.25
	20 to 40 persons	\$13,750.00	\$15,125.00
	over 40 persons	\$20,658.00	\$22,723.80

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.38.1	Office, General	\$4,125.00	\$4,537.50
59-G-2.36	Office, Medical Practitioner – non-resident	\$8,250.00	\$9,075.00
59-G-2.38	Office, Professional – non-resident	\$8,250.00	\$9,075.00
	Office, Professional – resident	\$8,250.00	\$9,075.00
	Outdoor Sales Lot (see Automobile Sales Lot)		
	Parking Garage – Automobile/per space	\$275.00	\$302.50
	- Maximum	\$20,658.00	\$22,723.80
59-G-2.39 59-G-2.39.1	Parking of Automobiles – off street, in connection with commercial - Per Space	\$550.00	\$605.00
	Maximum	\$11,000.00	\$1,210.00
59-G-2.41	Pet Shop	\$3,437.50	\$3,781.25
59-G-2.41.1	Pipeline – above ground	\$20,658.00	\$22,723.80
59-G-2.24	Private Club and Service Organization	\$6,875.00	\$7562.50
59-G-2.43	Public Utility Buildings, Public Utility Structures and Telecommunications facilities Racquetball, Squash, Indoor Tennis, Handball Courts – commercial (see Recreation & Entertainment Establishment)	\$13,750.00	\$18,750.00
59-G-2.45	Radio & TV Broadcasting Stations & Towers	\$20,658.00	\$22,723.80
59-G-2.44 (see 59-G-2.43)	Recreation or Entertainment Establishment, commercial	\$13,750.00	\$15,125.00
59-G-2.45	Recreation Facility primarily for use of residents	\$1,375.00	\$1512.50
	Research Institute – non-commercial (See Charitable & Philanthropic)		
	Restaurant (see Eating & Drinking Establishment)		

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

59-G-2.47	Retail Sales and Personal Services Establishment in multi-family housing per square foot	\$6.87	\$7.55
59-G-2.30	Retail Nursery and Garden Center (see Horticultural Nursery)		
59-G-2.48	Retail Sales and Personal Services – per square foot (Retail establishment in Office Building)	\$8.25	\$9.07
59-G-2.46	Retail and Service Establishments		
59-G-2.50	Rifle, Pistol, Skeet Shooting Range	\$6,875.00	\$7,562.50
59-G-2.51	Roofing Contractor	\$4,125.00	\$4,537.50
59-G-2.52	Sand, Gravel, Clay Pit or Extraction of other natural material – Temporary use	\$13,750.00	\$15,125.00
59-G-2.53.1	Sanitarium – Non-profit – up to 5 persons	\$275.00	\$302.50
	6 to 20 persons	\$1,100.00	\$1,210.00
	20 to 40 persons	\$3,437.50	\$3,781.25
	over 40 persons	\$8,250.00	\$9,075.00
	Sanitarium - Commercial – up to 5 persons	\$1,100.00	\$1,210.00
	6 to 20 persons	\$3,437.50	\$3,781.25
	20 to 40 persons	\$8,250.00	\$9,075.00
	over 40 persons	\$13,750.00	\$15,125.00
	Sanitary Fills and Incinerators	\$13,750.00	\$15,125.00
59-G-2.54	Sawmill	\$3,437.50	\$3,781.25
59-G-2.54.2	Service Organization	\$1,375.00	\$1512.50
	Solid Waste Transfer Station Private	\$6,875.00	\$7,562.50
	Specialty Shop (see Retail and Personal Services)		

**SECTION OF THE
ZONING ORDINANCE**

SPECIAL EXCEPTION USE

Revised Fee

	Stadium or Arena (see Recreation or Entertainment Establishment, commercial)		
	Stockyard		
59-G-2.55	Swimming Pool – commercial	\$6,875.00	\$7,562.50
59-G-2.56	Swimming Pool – community	\$1,375.00	\$1,512.50
59-G-2.57	Teahouses and Restaurants in Residential Zones		
	Temporary Structures, including wayside stands for sales of farm produce	\$687.50	\$756.25
59-G-2.58	Telecommunications Facility	\$13,750.	\$18,750.00
59-G-2.59	Theater, legitimate	\$11,000.00	\$12,100.00
59-G-2.60	Theater, indoor	\$6,875.00	\$7,562.50
59-G-2.62	Tire, Battery and Accessory Store	\$4,125.00	\$4,537.50
	Trade, Artistic or Technical School	\$3,437.50	\$3,781.25
59-G-2.32	Veterinary Hospital	\$8,250.00	\$9,075.00
	Warehouse Building – wholly enclosed	\$6,875.00	\$7,562.50
	Wholesale Nursery or Greenhouse (see Horticultural Nursery)		
59-G-2.63	Winery	\$6,875.00	\$7,562.50

VARIANCES

Single Family Residential **	\$400.00	\$440.00
Single Family Residence; Under construction or Newly constructed	\$800.00	\$880.00
Multi-Family	\$2,500.00	\$2,750.00
Commercial/Industrial	\$3,000.00	\$3,300.00

** If the variance is only for the existing non-conforming dwelling in

ADMINISTRATIVE APPEALS

Revised Fee

Residential Property *	\$200.00	\$220.00
Commercial Property *	\$200.00	\$220.00

* Refundable if appeal is granted

SIGN DEPOSIT

Deposit	\$200.00	\$220.00
Refundable upon return of sign	\$100.00	\$110.00

MODIFICATIONS, MINOR, WITHOUT PUBLIC HEARING

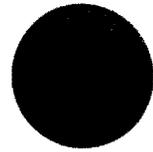
Extension of Time/Transfer of Special Exception	\$200.00	\$220.00
Other: 10% of prevailing fee with a Minimum of:	\$500.00	\$550.00

MODIFICATIONS, MAJOR, WITH PUBLIC HEARING

Changes in previously granted special exceptions involving no new construction	25% prevailing SE filing fee
New Construction Proposed	50% prevailing SE filing fee



055633



BOARD OF APPEALS

March 31, 2010

MEMORANDUM

FROM: Catherine Titus, Chair, Board of Appeals *cgf*

TO: Nancy Floreen, Council President

SUBJECT: Proposed Fee Increase

2010 APR - 6 PM 12: 31

RECEIVED
MONTGOMERY COUNTY
COUNCIL

FILED
22

As the Council is aware, on November 18, 2009, the Federal Communications Commission adopted a Declaratory Ruling which establishes timeframes, informally known as a "shot-clock", for state and local governments to process land use applications for telecommunication facilities. Specifically, the ruling requires jurisdictions to process collocation applications within 90 days and all other tower siting applications within 150 days. In Montgomery County, this timeframe will have particular impact on applications which require a special exception. Such applications are reviewed by the Telecommunication Transmission Facility Coordinating Committee (the Tower Committee), by Montgomery County Planning staff and the Planning Board, and by a Hearing Examiner in the Office of Zoning and Administrative Hearings (OZAH), which conducts the evidentiary hearings on the special exceptions prior to final decision by the Board of Appeals.

The shot clock will impose significant scheduling constraints on OZAH's calendar for all special exception hearings, and compliance with the 150 day timeframe may require re-scheduling of other, previously scheduled cases. In anticipation of this impact the Board and OZAH propose an increase of \$5000 in the filing fee for this use, bringing the fee to \$18,750. This amount is estimated to cover the cost of approximately 40 hours of contract hearing examiner time per application, to accelerate telecommunications special exception applications while minimizing the postponement of other hearings. In the last 5 years, there have been 10 applications for special exceptions for telecommunications facilities. However, as applications are accepted on a 'walk-in' basis it is difficult to anticipate their number with certainty. In fact, anecdotal information from industry representatives suggests that a large number may be filed this year. Moreover, the County's Tower Coordinator has informed OZAH that three filings requiring a special exception were recently completed, suggesting that applications with the Board of Appeals will soon follow.

(12)