

# COUNCIL COMING ATTRACTIONS



**January 14, 2019**

**Accessory Apartments, Officer Involved Shootings, Fence Setbacks, Medical and Dental Clinics, Inspector General Report on Misappropriation of Economic Development Funds, FY19 Budget Savings Plan, New Home Warranty and Builder Licensing, Short-Term Rentals, Emergency Communications Center**

Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .

The Council meeting schedule may change from time to time. The current Council and Committee agendas can also be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .

## COUNCIL

The Council meeting will begin at 9:30 a.m. on Tuesday, January 15.

### **Zoning Text Amendment 19-01, Accessory Residential Uses - Accessory Apartments**

The Council will introduce Zoning Text Amendment (ZTA) 19-01, Accessory Residential Units – Accessory Apartments. Councilmember Hans Riemer is the lead sponsor. The goal of this zoning change is to streamline the process for having an accessory apartment, to help increase the supply of affordable housing. ZTA 19-01 would do the following:

- 1) Allow detached accessory apartments as a limited use in R-200, R-90, and R-60 zones (currently detached accessory apartment are only allowed as limited use in RE-1, RE-2 and RE-2C zones);
- 2) Allows an accessory apartment in a basement (currently accessory apartments are allowed in a cellar);
- 3) Changes the measure of the size of an accessory apartment from 50% of gross floor area to 50% on habitable floor area;
- 4) Deletes the absolute maximum size on an accessory apartment (currently the absolute maximum size is 1,200 square feet);

- 5) Delete the maximum size of an addition that can be used as an accessory apartment (currently limited to 800 square feet);
- 6) Delete the requirement that the unit must be in a structure that is at least 5 years old;
- 7) Delete the distance requirement between accessory apartments (currently 500 feet in large lot zones and 300 in smaller lot zones);
- 8) Allow an accessory structure built before May 31, 2012 to be used as an accessory Apartment without regard to setbacks;
- 9) Specifically requires the owner of the site of the Accessory Apartment to live on the site (this is consistent with licensing requirements); and
- 10) Deletes the requirement that a detached accessory apartment be on a lot at least 1 acre in size.

A public hearing is tentatively scheduled for February 26 at 7:30 p.m.

The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_4A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_4A.pdf)

Key search terms for ZTA 19-01 on the Council's website include: in-law suite, cottage, basement apartment, accessory apartments and accessory dwellings. #MoCoTinyHouse is being used for this item on social media.

#### **Zoning Text Amendment 19-02, Concerning Clinics - Limited Use**

The Council will introduce ZTA 19-02, Concerning Clinics - Limited Use. Council President Nancy Navarro is the lead sponsor. The goal of this zoning change is to streamline the process for having medical and dental clinics as an accessory use in certain zones. ZTA 19-02 would allow medical and dental clinics as an accessory to certain large institutional uses. Under the current zoning code, any permitted or limited use in a zone may be an accessory use to any other use in the same zone. Before 2014, an accessory use could be any use that was incidental and subordinate to the principal use. Under this older provision, the Department of Permitting Services allowed medical and dental clinics as accessory uses to some institutional uses. That is no longer the case because those uses are not listed as permitted or limited uses in many residential zones. ZTA 19-02 would allow accessory use clinics in all residential zones with limitations on their size. A public hearing is tentatively scheduled for February 26 at 1:30 p.m. The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_4B.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_4B.pdf)

Key search terms for ZTA 19-02 on the Council's website include: accessory use, clinics, medical clinic and dental clinic. #MoCoMedical&DentalClinics is being used for this item on social media.

#### **Bill 1-19, Police - Officer Involved Death - Independent Investigation**

The Council will introduce Bill 1-19, Police - Officer Involved Death - Independent Investigation. Councilmember Will Jawando is the lead sponsor. Councilmembers Craig Rice and Hans Riemer, Council President Nancy Navarro and Councilmember Gabe Albornoz are cosponsors. Bill 1-19 would do the following:

- require an independent investigation of an officer involved death;
- establish qualifications for an independent investigation of an officer involved death;
- require the independent investigators to submit a final written report to the State's Attorney;
- make the written report public under certain circumstances; and
- generally amend the law governing investigations of an officer involved death.

The goal of this bill is to ensure investigations are independent, impartial, and transparent and to reduce the opportunity for conflicts of interest or the appearance of such conflicts, which can undermine public confidence in law enforcement.

The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_5A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_5A.pdf) .

Key search terms for Bill 1-19 on the Council's website include: LETT Act, officer involved death and police investigation. #LawEnforcementTransparency is being used for this item on social media.

 **OIG Report #19-002, A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Funds**

The Council will discuss Office of the Inspector General (OIG) Report #19-002, A Review of Management Control Deficiencies Contributing to the Misappropriation of Montgomery County Economic Development Fund. OIG undertook this investigation of the former Montgomery County Department of Economic Development (DED) after receiving evidence that DED's former Chief Operating Officer (COO) had misappropriated County funds. The separate criminal investigation of this matter and any related charges are not addressed in this report. The County government abolished DED by the start of FY 2016, prior to discovery of the DED COO's actions. The objective of this review was to comprehensively identify systemic problems and related financial and management control deficiencies over a multi-year period and recommend effective remedies. The report makes the following recommendations:

- Management should strengthen controls over financial transactions and payments, consistent with and complementary to recommendations contained in reports issued by auditors engaged by the County;
- Management should ensure that it divides or segregates key duties and responsibilities among different people; and
- Management should ensure that there is an annual comparison of budgets to actual expenditures which includes an explanation of how any variance relates to actual program accomplishments.

The report can be viewed in its entirety at:

[https://www.montgomerycountymd.gov/OIG/Resources/Files/PDF/IGActivity/FY2019/mcded\\_mismanagement\\_final\\_report\\_19\\_nov\\_2018.pdf](https://www.montgomerycountymd.gov/OIG/Resources/Files/PDF/IGActivity/FY2019/mcded_mismanagement_final_report_19_nov_2018.pdf)

The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_10.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_10.pdf)

## PUBLIC HEARINGS

All public hearings will be held on Tuesday, January 15 at 1:30 p.m.

 **ZTA 18-12, Setback Exemptions – Fences**

The Council will hold a public hearing on ZTA 18-12, Setback Exemptions – Fences. Councilmember Hans Riemer is the lead sponsor. ZTA 18-12 would allow a fence up to eight feet, if it is abutting a master planned right of way for a rail line or abutting any service roads that provides access to a master plan right of way for a rail line. The goal of this zoning proposal is to protect residents' privacy to shield their properties from rail line facilities including the Purple Line. The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_6.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_6.pdf)

Key search terms for ZTA 18-12 on the Council's website include: light rail, Purple Line and right of way. #Fences is being used for this item on social media.

 **ZTA 18-13, Regional Shopping Center Overlay Zone - Standards**

The Council will hold a public hearing on ZTA 18-13, Regional Shopping Center Overlay Zone – Standards. Councilmember Hans Riemer is the lead sponsor. ZTA 18-13 would amend the Regional Shopping Center Overlay Zone. It would allow for free standing buildings used for retail sales and

service, structured parking, or health clubs at a maximum height of 90 feet. The Regional Shopping Center Overlay Zone applies to Westfield Montgomery and Westfield Wheaton Malls. The general building height limit in the zone is 45 feet. The overlay zone has exceptions to that height limit for a building that includes a theater complex (90 feet), a hotel or motel (150 feet), and an apartment building or a multi-use building with residential use (150 feet). This ZTA would add to those exceptions. The goal of this zoning proposal is to allow more flexibility to use allowable density in different configurations. The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_7.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_7.pdf)

Key search terms for ZTA 18-13 on the Council's website include: height limits, regional shopping center, Montgomery Mall and Wheaton Mall. #WestfieldMallHeight is being used for this item on social media.

#### **ZTA 18-14, Farm Alcohol Production - Residential Zones**

The Council will hold a public hearing on ZTA 18-14, Farm Alcohol Production – Residential Zones. Councilmembers Hans Riemer and Craig Rice are lead sponsors. ZTA 18-14 would amend the recently approved provisions for farm alcohol production. ZTA 18-14 would allow tasting rooms in the RE-1 and RE-2 zones (residential estate zones, which consist of large lot residential uses) if: 1) the site is at least 25 acres in size; and 2) the site is in category six of the Ten-Year Water Supply and Comprehensive Sewerage Plan. Category six of the plan requires the use of a septic rather than a sewerage system. These conditions would be in addition to all other conditions applicable to accessory farm alcohol production. The goal of this zoning proposal is to expand opportunities in the agricultural and rural zones to have tasting rooms. The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_8.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_8.pdf)

Key search terms for ZTA 18-14 on the Council's website include: residential zones and farm alcohol production. #FarmAlcoholProduction is being used for this item on social media

#### **Bill 40 -18, Secondhand Personal Property - Dealers - License**

The Council will hold a public hearing on Bill 40-18, Secondhand Personal Property – Dealers – License. Councilmembers Andrew Friedson and Sidney Katz are the lead sponsors. Councilmember Gabe Albornoz, Council President Nancy Navarro and Councilmember Hans Riemer are cosponsors. Bill 40-18 would exclude certain personal property from the definition of secondhand personal property and provide that a secondhand personal property dealer license expires one year from the date of issuance. The goal of this bill is to provide that individuals and businesses that assist in coordination and marketing of estate sales are not considered secondhand personal property dealers. Its other goal is to avoid a high volume of license renewal applications at the same time each year, by providing that licenses issued under the law are valid for a period of one year. The Council staff report can be viewed at:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_9.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_9.pdf)

Key search terms for Bill 40-18 on the Council's website include: estate sales, secondhand property and Office of Consumer Protection. #EstateSales is being used for this item on social media.

## COMMITTEES

#### **FY19 Budget Savings Plan**

On Tuesday, January 15 at 4 p.m. the Education & Culture (EC) Committee will review the FY 2019 Budget Savings Plan. The Council received the \$46.5 million savings plan proposal on January 7 from the County Executive. The savings plan would reduce spending in the current fiscal

year (FY) 2019 operating budget, to better prepare the County for FY2020. Without the savings plan, it is anticipated that the County could face a budget gap exceeding \$105 million in FY2020. The proposed savings plan targets \$25 million in reductions for Montgomery County Public Schools and \$2.8 million for Montgomery College. The Council staff report can be viewed at: [https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2019/20190115/20190115\\_EC1.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2019/20190115/20190115_EC1.pdf)

 **FY19 Budget Savings Plan**

On Thursday, January 17 at 9:30 a.m. the Health and Human Services (HHS) Committee will review the FY 2019 Budget Savings Plan. The Council staff report will be available on January 15.

 **Expedited Bill 37-18, Transient Housing - Short Term Rental License – Appeals**

At 9:30 a.m. the Planning, Housing and Economic Development (PHED) Committee will review Expedited Bill 37-18, Transient Housing - Short Term Rental License – Appeals. Former Councilmember Nancy Floreen is the lead sponsor. The goal of Bill 37-18 is to allow a more efficient appeal process for short-term rental issues. This legislation would amend the appeal process for short-term rental licenses. It would allow any person aggrieved by an approval, denial, revocation or suspension of a short-term rental license to appeal the decision to the Board of Appeals. In the absence of this provision, an aggrieved party must bear the time and cost of an appeal to the Circuit Court. The Council staff report will be available on January 15.

Key search terms for Expedited Bill 37-18 include: homestays, short-term rentals, home rental and license appeal. #HomestayLicenses is being used for this item on social media.

 **FY19 Operating Budget Section G Amendment: Launch Workplace, LLC**

The PHED Committee will review FY19 Operating Budget Section G Amendment: Launch Workplace, LLC. The Council staff report will be available on January 15.

 **MCEDC FY19 Outcomes and General Economy**

The PHED Committee will receive an update from the Montgomery County Economic Development Corporation (MCEDC) on its FY19 outcomes and the general economic outlook of the County. The Council staff report will be available on January 15.

 **OLO Report 2018-12, 2018 Evaluation of the Bethesda Urban Partnership**

The PHED Committee will close out its meeting with a review of Office of Legislative Oversight (OLO) Report 2018-12, 2018 Evaluation of the Bethesda Urban Partnership (BUP). The Council established BUP in 1993 as the urban district corporation for the Bethesda Urban District. By law, an urban district corporation exists for five years before it must be reauthorized by Council resolution and approved by the County Executive. Before its term is renewed, the Office of Legislative Oversight must conduct a performance evaluation. BUP's current term ends on January 31, 2019. Since this evaluation finds that BUP continues to fulfill its mandated responsibilities, OLO recommends that the Council reauthorize BUP for an additional five-year term. The full report can be viewed at:

<https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/FY18%20Work%20Program/2018-12.pdf>

The Council staff report will be available on January 15.

 **FY19 Budget Savings Plan**

At 2 p.m. the Public Safety (PS) Committee will review the FY 2019 Budget Savings Plan. The Council staff report will be available on January 15.

 **Bill 31-18, New Home Warranty and Builder Licensing- Amendments**

The PS Committee will review Bill 31-18, New Home Warranty and Builder Licensing-Amendments. Councilmember Craig Rice is the lead sponsor. Bill 31-18 would require new home builders and new home sellers to register with the Office of Consumer Protection, require new home builders and new home sellers to provide buyers with a new home warranty, and require the Office of Consumer Protection to administer and enforce County law related to new home builders and new home sellers. The goal of this bill is to bring the County into greater uniformity with the State of Maryland's builder registration law. The Council staff report will be available on January 15.

 **2018 Hazard Mitigation Plan**

The PS Committee will review the County's 2018 Hazard Mitigation Plan. The Council staff report will be available on January 15.

 **Emergency Communications Center**

The PS Committee will close out its meeting with an update on the Emergency Communications Center, which is the Public Safety Answering Point (PSAP) for all 9-1-1 calls placed in the County. The Public Safety Emergency Communications Specialist (Emergency Call Taker/Dispatcher) obtains location and other pertinent details from the caller to make the initial determination of the level and type of service needed when processing emergency calls for service. The Council staff report will be available on January 15.