



## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

**APPROVED**

Tuesday, July 27, 2021

The County Council for Montgomery County, Maryland convened via video conference at 9:04 A.M. on Tuesday, July 27, 2021.

### PRESENT

Councilmember Tom Hucker, President	Councilmember Gabe Albornoz, Vice President
Councilmember Andrew Friedson	Councilmember Evan Glass
Councilmember Will Jawando	Councilmember Sidney Katz
Councilmember Nancy Navarro	Councilmember Craig Rice
Councilmember Hans Riemer	

The President in the Chair.

### PRESENTATIONS

- A. Proclamation was presented by full Council remembering those lost due to COVID-19.
- B. Proclamation was presented by Council President Hucker and Ms. Navarro recognizing Fibroid Awareness Month.

### GENERAL BUSINESS

- A. **Announcements** - Agenda and Calendar Changes  
Ms. Singleton, Clerk of the Council, announced that the public hearing on the Spending Affordability Guidelines for the FY23 Capital Budget and the FY23-28 Capital Improvements Program (CIP) will be held on September 21, 2021, at 1:30 P.M.
- (1) B. **Acknowledgement** – [Receipt of Petitions](#)  
No petitions were received this week

C. **Action** – Approval of Minutes

Approved the minutes of May 12, 13, 14, 17, and 18, 2021, and the Bi-County Meeting minutes of May 13, 2021, without objection. Mr. Jawando was temporarily absent.

(2) **COUNCIL SITTING AS BOARD OF HEALTH**

A. Update - [Novel Coronavirus \(COVID-19\) and County Public Health Planning](#)

Participating in the discussion were Dr. Gayles, County Health Officer and Chief of Public Health Services, Dr. Bridgers, Deputy County Health Officer, Department of Health and Human Services (DHHS); and Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS).

Dr. Gayles reviewed current COVID-related statistics, noting the upward trend in positive cases and hospitalizations and that 80 percent of new cases are in those individuals who are not fully vaccinated. Vaccine rates by zip code are available on the County website. There are a few breakthrough cases among those vaccinated, but they have not resulted in hospitalizations. Currently, the County is a leader in the country with 70 percent of eligible residents having been vaccinated and Dr. Gayles encouraged everyone eligible to get the vaccine. He noted that vaccination of homebound individuals is ongoing, and that there is no new guidance from the Centers for Disease Control and Prevention (CDC) regarding the need for a booster vaccine. They are meeting later today to discuss face covering policies in Montgomery County Public Schools (MCPS). He noted that businesses can require patrons to provide proof of vaccination for entry or to receive service, stressing that it is important to drive community transmission levels down in order to avoid interruptions to businesses and services. He requested a contingency plan be put in place based on metrics for potential action should case numbers and hospitalizations continue to increase to help keep people safe. He recommended residents visiting states with high case rates (particularly Florida, Texas, or Missouri) get tested upon return.

Dr. Stoddard cautioned that if case numbers and hospitalizations continue to increase, action by the Board of Health may be needed to address the situation. He noted that the Rental Relief program provided \$2 million in relief funds to residents last week.

Mr. Friedson inquired about data on the number of County employees that have been vaccinated, suggested the data be published, and strongly urged moving toward requiring County employees to be vaccinated with additional restrictions, should they be needed, targeted toward the unvaccinated.

B. Update - [Coronavirus Relief Fund \(CRF\)](#)

Participating in the discussion were Mr. Howard, Council Deputy Director; Mr. Madaleno, Chief Administrative Officer; Dr. Stoddard; and Mr. Gottesman, Office of Management and Budget (OMB).

Received an update on COVID-related expenditures and Federal Emergency Management Agency (FEMA) reimbursements, as shown on circle pages 4 through 8 of the staff report, noting that the Executive Branch had been waiting to book specific costs to the CRF Non-departmental Account (NDA) until it had received FEMA's reimbursement decisions. Because it is unlikely that the County will receive FEMA reimbursements for hazard pay differential costs, \$70 million for those costs will be booked to the CRF.

Mr. Friedson commented on the lack of correct information provided to the Council pertaining to FEMA reimbursements, noting that the County's FY22 operating budget was balanced partially on FEMA reimbursement assumptions, and inquired about contingency plans should the reimbursements not be received as anticipated. He requested Executive Branch staff provide information on how much has been spent to prepare the FEMA reimbursements, including the cost of the FEMA consultant, and suggested a running total be kept of staff time dedicated to reimbursement preparation and the reimbursement amounts provided by FEMA.

(3) **INTERVIEWS - [County Executive's Appointments of Regional Services Center Directors: Luisa Cardona, Peter Fosselman, Jacob Newman, Greg Wims](#)**

Interviewed Luisa Cardona, Peter Fosselman, Jacob Newman, and Greg Wims, candidates for appointment as Regional Services Center Directors. Action is scheduled for later in the afternoon.

(4) **DISTRICT COUNCIL SESSION**

D. **Action - [ZTA 19-07, Telecommunications Towers - Limited Use](#)**

In his opening remarks, Council President Hucker said this matter has been before this, and the previous Council, for a total of six years. The matter is unusual because the ZTA must comply with the federal order and 5G regulations. The County Attorney has expressed the opinion that unless the County liberalizes its cell tower citing rules, it is vulnerable to legal challenges. Mr. Hucker said the Council can monitor implementation of the ZTA and return to consider any necessary modifications, if needed.

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, stated that current telecommunication towers are not sufficient for the future of wireless technology, and the ZTA seeks to allow antennas to be placed closer together where needed.

Mr. Jawando, stating his opposition to the ZTA, said the Council should wait to hear the outcome of the current lawsuit pending in the D.C. Circuit Court of Appeals that challenges the Federal Communications Commission's (FCC) current 5G radio frequency guidelines, and expressed concern that the FCC's safety guidelines have not been updated since 1996.

Mr. Katz agreed with Mr. Jawando that the Council should wait until the outcome of the pending federal court case is known before acting on the ZTA.

Enacted **Ordinance 19-17**, approving draft #7 of ZTA 19-07. The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Glass, Riemer, Navarro, Rice, Friedson, Albornoz, Hucker  
NAYS: Jawando, Katz.

A. **Introduction - [Zoning Text Amendment \(ZTA\) 21-05 - Rural Village Center \(RVC\) Overlay Zone - Vehicle Repair](#)**

Introduced draft #1 of ZTA 21-05, sponsored by Mr. Glass. A public hearing is scheduled for September 14, 2021, at 1:30 P.M.

B. **Action - [Subdivision Regulation Amendment \(SRA\) 21-01, Exemptions - Alcohol Production and Agritourism](#)**

Enacted **Ordinance 19-18**, approving draft #3 of SRA 21-01.

The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Rice, Friedson, Katz, Albornoz, Hucker.

C. **Action - [ZTA 21-01, Sign Ordinance - Bus Shelter Advertising](#)**

Enacted **Ordinance 19-19**, approving draft #2 of ZTA 21-01.

The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Rice, Friedson, Katz, Albornoz, Hucker.

E. **Action** - [Additions to the Office of Zoning and Administrative Hearings' Comprehensive Fee Schedule](#)

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee reviewed the Committee's recommendation as contained in the staff report.

Adopted **Resolution 19-951**, approving the additions to the Office of Zoning and Administrative Hearings' Comprehensive Fee Schedule.

The GO Committee made the motion, which carried without objection.

(5) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Rice made the motion, which carried without objection.

- A. [Adopted Resolution 19-952](#), approving Washington Suburban Sanitary Commission's (WSSC Water) June 1, 2021 Debt Refunding Plan.
- B. [Adopted Resolution 19-953](#), approving the Office of Legislative Oversight's (OLO) FY 22 Work Program.
- C. [Adopted Resolution 19-954](#), approving the FY22 schedule of revenue estimates and appropriations.
- D. [Adopted Resolution 19-955](#), designating WorkSource Montgomery as the County's Workforce Development Organization.
- E. [Adopted Resolution 19-956](#), appointments to the Public Election Fund Committee.
- F. **Received and Released** the OLO's Report 2021-10, A Study on Reassigning Traffic Enforcement from the Montgomery County Police Department to the Montgomery County Department of Transportation.
- G. **Received and Released** the OLO's Report 2021-9: The Impact of the COVID-19 Pandemic on Women.

- H. Adopted **Resolution 19-957**, to Petition the State for Grants for the Montgomery College FY22 Capital Budget: \$3,000,000 for furniture and equipment for the Takoma Park/Silver Spring Math and Science Center Project.
- I. Adopted **Resolution 19-958**, confirming the County Executive's appointments to the Animal Matters Hearing Board: Al Ferruggiaro, Pamela Easson, Norman Evans.
- J. Adopted **Resolution 19-959**, confirming the County Executive's appointment to the Domestic Violence Coordinating Council: Dinesh Patil.
- K. Adopted **Resolution 19-960**, confirming the County Executive's appointments to the Commission on Landlord-Tenant Affairs: Oma Ngwobia, Michael Rosenzweig, Stefanie Milovic.
- L. Adopted **Resolution 19-961**, confirming the County Executive's appointments to the Local Management Board for Children, Youth, and Families (Collaboration Council): Monya Bunch, Hannah Davis, Carolyn Lowery, Wanda Frink.
- M. Adopted **Resolution 19-962**, confirming the County Executive's appointment to the Washington Suburban Sanitary Commission: T. Eloise Foster.
- N. **Approved** the appointment of Mark Gheiler, William M. Hoffman, and David E. Miller to provide legal advice and representation to the County in connection with real estate transactions.
- O. **Introduced** a special appropriation to County Government's FY22 Operating Budget, Community Grants Non-Departmental Account (NDA) - \$197,500 for Commission of Dominique Dawes Sculpture (Source of Funds: General Fund Reserves) and Amendment to Fiscal Year 2022 Operating Budget Resolution 19-872 Section G, FY22 Designation of Entities for Non-Competitive Contract Award Status: Hanlon Sculpture Studio LLC. A public hearing and action are scheduled for September 14, 2021, at 1:30 P.M.

The Council recessed at 12:56 P.M. and reconvened at 1:35 P.M.

- (6) **PUBLIC HEARING** - Sectional Map Amendment (SMA) H-139 to implement the Approved and Adopted Germantown Plan for the Town Sector Zone

The public hearing was conducted. Mr. Friedson, Ms. Navarro and Mr. Riemer were temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on July 30, 2021. A Planning, Housing and Economic Development (PHED) Committee worksession will be scheduled at a later date.

- (7) **PUBLIC HEARING/ACTION** - Special Appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) COVID-19 Response: \$2,665,260 for Maryland Department of Housing and Community Development, Neighborhood Revitalization for the Emergency Housing Program

The public hearing was conducted and the record closed.

Adopted **Resolution 19-963**, approving the subject special appropriation.

Mr. Katz made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (8) **PUBLIC HEARING/ACTION** - Special Appropriation to the County Government's FY22 Operating Budget COVID-19 Human Services and Community Assistance Non-Departmental Account (NDA) - \$2,946,776 for Por Nuestra Salud y Bienestar (For Our Health and Wellbeing)

The public hearing was conducted and the record closed.

Supported, without objection, the following staff amendment, as contained in the staff report:

The County will seek reimbursement from FEMA for any eligible costs and will seek and allocate other grant resources that may appropriately fund the activities of Por Nuestra Salud y Bienestar.

Adopted **Resolution 19-964**, approving the subject special appropriation, as amended.

Mr. Albornoz made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (9) **PUBLIC HEARING/ACTION** - Special Appropriation to the County Government's FY22 Operating Budget COVID-19 Human Services and Community Assistance Non-Departmental Account (NDA) - \$1,701,809 for African American Health Program COVID Response and Resolution to Amend the County Government's FY22 Operating Budget Resolution 19-872, Section G, Designation of Entities for Non-Competitive Contract Award Status: The National Center for Children and Families, Inc.

The public hearing was conducted and the record closed.

Adopted **Resolution 19-965**, approving the subject special appropriation.

Mr. Rice made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (10) **PUBLIC HEARING/ACTION** - Special Appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Service - \$1,150,000 for Asian American Health Initiative COVID Response

The public hearing was conducted and the record closed.

Adopted **Resolution 19-966**, approving the subject special appropriation.

Mr. Alborno made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (10.5) **INTRODUCTION/ACTION** - Resolution to Amend FY22 Operating Budget Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for Non-Competitive Contract Award Status: Primary Care Coalition (for Asian American Health Initiative)

Introduced the subject resolution.

Adopted **Resolution 19-967**, amending FY22 Operating Budget Resolution 19-872, Section G, Fiscal Year 2022 Designation of Entities for Non-Competitive Contract Award Status: Primary Care Coalition (for Asian American Health Initiative).

Mr. Katz made the motion, which carried without objection. Ms. Navarro was temporarily absent.



- (11) **PUBLIC HEARING/ACTION** - Special Appropriation to the County Government's FY22 Operating Budget, DHHS – [\$2,903,172] [\\$3,183,185](#); Department of Recreation - \$300,000; Community Engagement Cluster - \$330,000; and Montgomery County Public Schools (MCPS) - \$1,585,633 for Newcomers Enhancements and Assistance

The public hearing was conducted and the record closed.

Mr. Albornoz, Chair of the Health and Human Services (HHS) Committee, and Senior Legislative Analyst McMillan reviewed two amendments to the special appropriation made in the joint Health and Human Services (HHS) and Education and Culture (E&C) Committee: add \$280,013 to fund four positions and two vans to enhance Street Outreach Network (SON) services; and shift \$93,000 within the recommendation to allow the Department of Recreation to hire a merit administrator rather than a contractor.

Adopted **Resolution 19-968**, approving the subject special appropriation, as amended in Committee.

Mr. Albornoz made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (12) **PUBLIC HEARING/ACTION** - [Special Appropriation to the County Government's FY22 Operating Budget, DHHS - \\$816,067 for Community Services Block Grant \(CARES\)](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-969**, approving the subject special appropriation, as submitted by the County Executive.

Mr. Rice made the motion, which carried without objection. Ms. Navarro was temporarily absent.

- (13) **PUBLIC HEARING/ACTION** - [Special Appropriation to the County Government's FY22 Operating Budget, DHHS - \\$970,360 for FY22 American Rescue Plan Funding Increase for Head Start Programs](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-970**, approving the subject special appropriation, as submitted by the County Executive.

Mr. Albornoz made the motion, which carried without objection. Ms. Navarro was temporarily absent.

(14) **PRESENTATION** - [OLO Report 2021-9: The Impact of the COVID-19 Pandemic on Women](#)

Ms. Latham, Senior Legislative Analyst, and Ms. Simmons, Legislative Analyst, OLO, presented findings and recommendations in the subject OLO report.

Mr. Albornoz, Chair of the HHS Committee, thanked Mr. Jawando for initiating the study and for hosting a town hall on the subject.

(15) **PRESENTATIONS** - [Montgomery County Council Summer Fellows](#)

Eva Acevedo, Council Fellow; Iisis Chestnut, Office of Racial Equity and Social Justice Fellow; Madison Hollon, Department of Technology and Enterprise Business Solutions (TEBS) Fellow; Jamie Panarites, TEBS Fellow; David Paul, Council Fellow; Jonathan Robison, MCDOT Fellow; Rachel Schafer, Office of Innovation Fellow; and Andrew Wen, Council Fellow, presented their research papers and responded to questions from Councilmembers. Eva Acevedo presented a paper on *A Framework for a Guaranteed Basic Income Pilot in Montgomery County*; Iisis Chestnut presented a paper on *A Year Post-Pandemic: An Analysis of Montgomery County's Vaccine Response for BIPOC Communities*; Madison Hollon presented a paper on *Closing the Digital Divide: Expanding Broadband and Technology Accessibility in Montgomery County through Administrative Expansion*; Jamie Panarites presented a paper on *Technology Innovations from COVID-19 to Now: An Analysis and Framework to Evaluate Technology Innovations from the Pandemic*; David Paul presented a paper on *Care, not Custody: Implementing the Homeless Persons Docket*; Jonathan Robison presented a paper on *Green Access: A Transit to Trails Proposal for Montgomery County*; Rachel Schafer presented a paper on *Lessons in Outreach: Testing the Use of Behaviorally Informed Messaging 2021*; and Andrew Wen presented a paper on *Food Security in Montgomery County: Lessons Learned from the County's COVID-19 Response Efforts*.

(16) **ACTION** - [Confirmation of County Executive's appointments of Regional Services Center Directors: Luisa Cardona, Peter Fosselman, Jacob Newman, Greg Wims](#)

Adopted **Resolution 19-971**, confirming the County Executive's appointment of Luisa Cardona as Mid-County Regional Services Center Director; adopted **Resolution 19-972**, confirming the County Executive's appointment of Peter Fosselman as Bethesda Regional Services Center Director; adopted **Resolution**

**19-973**, confirming the County Executive's appointment of Jacob Newman, as Silver Spring Regional Services Center Director; and adopted **Resolution 19-974**, confirming the County Executive's appointment of William Gregory Wims as Upcounty Regional Services Center Director.

Supported, without objection, Mr. Jawando's motion to adopt the resolutions en bloc. Ms. Navarro was temporarily absent.

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
IN LEGISLATIVE SESSION - Day #20**

(16.5) **Introduction of Bills:**

A. [Expedited Bill 33-21, Personnel - Employee's Retirement System - Group E - Amendments](#)

Introduced draft #1 of **Expedited Bill 33-21**, sponsored by the Council President at the request of the County Executive. A public hearing will be is scheduled for September 14, 2021, at 1:30 P.M.

(17) **Call of Bills for Final Reading:**

A. [Bill 20-21, Swimming Pools - Lifeguard Requirement - Amendments](#)

Mr. Albornoz, Chair of the HHS Committee, and Mr. Katz, one of the lead sponsors, gave comments on the purpose of subject legislation.

Enacted draft #4 of **Bill 20-21**, as shown at the end of these minutes.

The HHS Committee made the motion and the bill was enacted by a roll call vote.

YEAS: Glass, Jawando, Riemer, Katz, Rice, Friedson, Albornoz, Hucker  
ABSENT: Navarro.

B. [Bill 3-21 - Special Taxing Area Laws - Silver Spring Business Improvement District \(BID\) Established](#)

Participating in the discussion was Mr. Drummer, Senior Legislative Attorney.

Mr. Riemer, as Chair of the PHED Committee, reviewed the purpose of the subject legislation to create a business improvement district in Silver Spring to provide marketing and promotion for the district. He also noted that creating a Main Street program for the Fenton Village area in the district will be taken up in the fall for the smallest businesses in Silver Spring.

Mr. Jawando expressed concerns about the BID governance structure; and the lack of involvement of small, minority business owners and the potential negative impacts on racial equity and social justice.

Several Councilmembers stated that they wished they had had more time to work through various issues and proposals, but noted it was best to move forward with the legislation and indicated that changes could be made at a later date. Stated the importance of continuing conversations on how to improve Silver Spring, especially with small business owners.

Discussed the legal requirements of the BID governance structure and the impact of restructuring the BID corporation. Mr. Jawando made a motion to table the legislation. The motion did not receive a second.

Enacted draft #9 of **Bill 3-21**, without change from the bill as amended by the joint PHED/GO Committee, as shown at the end of these minutes.

The joint PHED/GO Committee made the motion and the bill was enacted by a roll call vote:

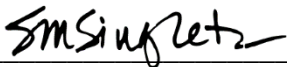
YEAS: Glass, Riemer, Katz, Rice, Friedson, Albornoz, Hucker

NAYS: Jawando

ABSENT: Navarro.

The meeting adjourned at 4:23 P.M.

This is a correct copy of Council action.



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Selena Mendy Singleton, Esq.  
Clerk of the Council

Bill No. 20-21  
 Concerning: Swimming Pools – Lifeguard Requirement – Amendments  
 Revised: 7/15/2021 Draft No. 4  
 Introduced: May 27, 2021  
 Enacted: July 27, 2021  
 Executive: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmembers Katz and Rice

**AN ACT to:**

- (1) define the term “health club”
- (2) exempt certain swimming pools at certain facilities from the requirement to have a lifeguard on duty when the pool is open for use;
- (3) require posting of certain signage translated in certain languages;
- (4) require health club contract to include a certain provision;
- (5) require certain facilities with a swimming pool to have an emergency alert system;
- (5) require an employee to regularly inspect swimming pool area; and
- (6) generally amend County law relating to swimming pools.

By amending

Montgomery County Code  
 Chapter 51, Swimming Pools  
 Sections 51-1 and 51-10

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1 **Sec. 1. Sections 51-1 and 51-10 are amended as follows:**

2 **51-1. Definitions.**

3 In this Chapter, the following words have the following meanings:

4 \* \* \*  
5 *Automatic pool cover* means a mechanical device that completely covers the swimming pool surface  
6 automatically when activated, and meets the requirements of a power safety cover established by the  
7 American Society for Testing and Materials.

8 *Health club* means any licensed and registered corporation or business which offers or provides to the  
9 public, on a paid membership basis, services, facilities, instruction, training, or assistance in body building,  
10 weight loss, exercising, muscle toning, aerobics, or any other similar physical activity.

11 *Hotel* has the same meaning as in Code § 54-1.

12 \* \* \*

13 **51-10. Safety standards; lifeguards, [and] spa guards[.] and exemptions.**

14 \* \* \*

15 (b) *Lifeguards.*

16 (1) Except for public spas, health clubs, and hotels, as provided in paragraph (c), (d), and (e)  
17 [(d)], every public swimming pool must have at least one lifeguard with a valid  
18 infant/child/adult cardiopulmonary resuscitation (CPR) certificate from the American  
19 Red Cross, the American Heart Association, the National Safety Council, or a  
20 comparable program approved by the state Department of Health and Mental Hygiene,  
21 present when the pool is open for use.

22 \* \* \*

23 (c) *Public spas.* A public spa must have at least one spa guard present when the spa is open for use.  
24 The spa guard must be available immediately to help in an emergency.

25 (d) *Health club.* A swimming pool located on the grounds of a health club is not subject to paragraph  
26 (b) of this section, if it:

- 27 (1) has a water surface area less than or equal to 2,500 square feet and maximum depth of  
28 five feet;
- 29 (2) is used only for members or guests who are at least 16 years of age; [and]
- 30 (3) includes posted safety, health, and warning signs, as required under subsection (f),  
31 translated in Spanish, French, Chinese, Korean, and other languages, as determined  
32 necessary by the Approving authority; and
- 33 (4) the owner complies with subsection (f) of this subtitle and all other provisions under  
34 Code of Maryland Regulations (COMAR) 10.17.01, Public Swimming Pools and Spas.

35 (e) *Health club contracts – Disclosure Statement Required.*

36 (1) A health club not subject to paragraph (b) of this section, must provide:  
37 (A) a contract for health club services, at the initial point of sale, that includes a  
38 disclosure statement, signed and dated by the member, that indicates the facility  
39 will not have a lifeguard on duty while the swimming pool is in use.

40 (f) [(d)] *Hotels.* Except for on Saturday and Sunday between 11:00 a.m. and 7:00 p.m., paragraph  
41 (b) does not apply to a pool that has a water surface area less than 2,500 square feet located on the  
42 grounds of a hotel for the exclusive use of its registered guests if:

- 43 (1) the hotel is properly licensed under Chapter 54; and
- 44 (2) [the hotel posts warning signs that meet the following:] the owner complies with  
45 subsection (f) of this subtitle and all other provisions under Code of Maryland  
46 Regulations (COMAR) 10.17.01, Public Swimming Pools and Spas.

47 (g) [[f]] *Safety Signs Required; Emergency Alert System.*

48 (1) An owner of a public spa, health club, or hotel must post warning signs that meet the  
49 following:

- 50 (A) the size, color, design, application, symbol, and visual layout of a safety sign is  
51 in compliance with the ANSI Z-535 series of standards for Safety Signs and  
52 Colors as referenced in American National Standard for Public Spas;
- 53 (B) a safety sign is posted in a permanent location adjacent to a health club or hotel  
54 in compliance with the American National Standard for Public Spas;
- 55 (C) the safety sign includes the user load of the pool;

- 56 (D) a chemical warning sign is posted at the entrance door to a chemical storage area
- 57 and includes the text "Caution! Chemical Storage Area";
- 58 (E) a chemical vat, feeder, pump, and line is labeled to identify the chemical in use;
- 59 (F) a chlorine gas warning sign reading "Danger—Chlorine Gas" is posted at the
- 60 entrance to a chlorine gas feed room and storage area;
- 61 (G) other warning, health advisory, and safety signs are posted, as required by
- 62 Executive Regulation, if necessary to protect the public health and safety; and
- 63 (H) a pool that does not have a lifeguard on duty has a conspicuous sign posted
- 64 adjacent to entrances to the pool reading "Warning: No lifeguard on duty.
- 65 SWIM AT YOUR OWN RISK. Children under the age of [15] 16 are not
- 66 permitted to use the pool without adult supervision"; and
- 67 (2) [(3)] the pool area has a functional and visible emergency alert system approved by
- 68 the Director of the Department of Health and Human Services that:
- 69 (A) connects directly to 9-1-1; and
- 70 (B) notifies an employee of the health club or hotel when activated; and
- 71 (3) [(4)] the health club or hotel has an employee with a valid infant/child/adult
- 72 cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, the
- 73 American Heart Association, the National Safety Council, or a comparable program
- 74 approved by the state Department of Health and Mental Hygiene, on the premises of the
- 75 health club or hotel when the pool is open for use and no lifeguard is on duty[.] ; and
- 76 (4) the owner of the health club must have an employee who regularly inspects the
- 77 swimming pool area to ensure the well-being and safety of its members and guests.

78 **Sec. 2. Transition.** Following the effective date of this Act, the Department of Health and Human Services,  
 79 is allotted up to 120 days, to prepare and plan an educational training program that provides an overview of  
 80 COMCOR 51.00.02, Manual on Public Swimming Pool Operation, other related materials, and technical  
 81 assistance for applicable health clubs exempt from the lifeguard requirement under Section 51-10(d), as  
 82 amended.

Bill No. 3-21  
 Concerning: Special Taxing Area Laws –  
Silver Spring Business Improvement  
District – Established  
 Revised: 7-26-2021 Draft No. 9  
 Introduced: January 12, 2021  
 Enacted: July 27, 2021  
 Executive: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmember Riemer and Council President Hucker  
 Co-Sponsors: Councilmembers Friedson, Katz, Navarro and Rice

**AN ACT to:**

- (1) establish a business improvement district in Silver Spring;
- (2) establish guidelines for the District and authorize a district corporation to manage the District;
- (3) authorize a tax on nonexempt property located in the District to finance the operations of the district corporation; and
- (4) generally amend the laws governing a business improvement district in Silver Spring.

By adding

Montgomery County Code  
 Chapter 62, Silver Spring Business Improvement District  
 Sections 62-1, 62-2, 62-3, 62-4, 62-5, 62-6, 62-7, 62-8, and 62-9

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



1           **Sec. 1. Sections 62-1, 62-2, 62-3, 62-4, 62-5, 62-6, 62-7, 62-8, and 62-9 are added as follows:**

2                           **Chapter 62. [Reserved] Silver Spring Business Improvement District.**

3 **62-1. Definitions. As used in this Chapter:**

4           Board means the board of directors of the Silver Spring Business Improvement District corporation.

5           Commercial tenant means a lessee or other lawful occupant, other than the owner, of nonexempt property  
6           within the District.

7           Condominium means property subject to a condominium regime as stated in §11-101 of the Real Property  
8           Article of the Annotated Code of Maryland.

9           Cooperative housing corporation means a corporation where each stockholder or member, by virtue of  
10           such ownership or membership, has a cooperative interest in the corporation as defined in §5-6B-01 of the  
11           Corporations and Associations Article of the Annotated Code of Maryland.

12           Department means the Department of Transportation or another County department or office designated by  
13           the Executive to perform functions under this Chapter.

14           District means the Silver Spring Business Improvement District established under this Chapter and covering  
15           the geographic area of the County described in Section 62-2.

16           District corporation means the Downtown Silver Spring Business Improvement District, Inc. which was  
17           formed to operate the Silver Spring Business Improvement District in accordance with this Chapter.

18           Homeowners association means an incorporated or unincorporated association with the authority to enforce  
19           the provisions of a declaration imposing a mandatory fee for the benefit of some or all of the lots in a  
20           development as defined in §11B-101 of the Real Property Article.

21           [[Maintaining streetscape amenities means cleaning, repairing, rehabilitating, or replacing streetscape  
22           amenities.]]

23           [[Maintaining the streetscape includes cleaning sidewalks, driveways, streets, and other public areas;  
24           collecting trash; and caring for trees and other plantings. Maintaining the streetscape includes streetscaping  
25           of the medians and street sweeping but does not include maintaining the road or the curbs.]]

26           Members of the district means the owners of nonexempt property in the District.

27           Nonexempt property means all real property in the District that is not exempt from paying real property  
28           taxes except a:

- 29                   (1)     condominium unit or cooperative housing corporation unit that exists on or before the  
30                           date this law takes effect;
- 31                   (2)     homeowner’s association; and
- 32                   (3)     residential property with fewer than 4 dwelling units.

33           [[Streetscape amenity includes such items as bulletin boards and electronic displays; communication  
34           systems; containers for growing things; fountains and pools; drinking fountains; functional and decorative  
35           lighting; outdoor seating; restrooms; seating and other street furniture; shelters for pedestrians and persons  
36           using public transportation; non-standard paving; sidewalks; trees and other plantings; trash containers;  
37           vending booths and kiosks; works of art; any outdoor item that an optional method developer agreed to  
38           install and maintain as a condition of site plan approval; and other items of a similar character or purpose.]]

39 **62-2. Silver Spring Business Improvement District – Established.**

40           (a)     Findings. The Council, after receiving an application to establish a district corporation and  
41           conducting a public hearing on the application, as required by §§12-608 and 12-609 of the  
42           Economic Development Article of the Annotated Code of Maryland, finds that a business  
43           improvement district would promote the general welfare of the residents, employers, employees,  
44           property owners, commercial tenants, consumers and the general public within the downtown area  
45           of Silver Spring.

46           (b)     Established. The Silver Spring Business Improvement District is established pursuant to §§12-  
47           601 to 12-612 of the Economic Development Article of the Annotated Code of Maryland.

48           (c)     Boundary. The Silver Spring Business Improvement District includes all land in the thirteenth  
49           election district of the County within the area described as follows:

- 50                   [[(1)    beginning at a point on the Maryland-District of Columbia boundary line at the  
51                           intersection of the west right-of-way of Georgia Avenue with the Maryland-District of  
52                           Columbia boundary line, and running in a northwesterly direction along the Maryland-  
53                           District of Columbia boundary line, and crossing Sixteenth Street along an extension of  
54                           that boundary line to its intersection with the west right-of-way line of Sixteenth Street;

- 55 (2) then in a northerly direction along the west right-of-way line of Sixteenth Street, crossing  
56 East-West Highway to its intersection with a southwesterly extension of the northerly  
57 right-of-way line of Spring Street;
- 58 (3) then in a northeasterly direction along that extension crossing Sixteenth Street to its  
59 intersection with the east right-of-way line of Sixteenth Street;
- 60 (4) then in a northeasterly direction along the northern right-of-way line of Spring Street,  
61 crossing Second Avenue, First Avenue, Georgia Avenue, and Alton Parkway, then  
62 continuing southeasterly crossing Fairview Road and Cameron Street, to its intersection  
63 with Colesville Road;
- 64 (5) then in a southeastern direction along the extension of the northeastern boundary of  
65 Spring Street across Colesville Road, crossing Roeder Road and across its intersection  
66 with Ellsworth Drive;
- 67 (6) then in a southwesterly direction along the southeast right-of-way line of Cedar Street;
- 68 (7) then in a southeasterly direction along the northeast right-of-way line of Cedar Street,  
69 crossing Wayne Avenue, to its intersection with the southeast right-of-way line of Wayne  
70 Avenue;
- 71 (8) then in a southwesterly direction along the southeast right-of-way line of Wayne Avenue  
72 to its intersection with Fenton Street;
- 73 (9) then in a southern direction along the eastern right-of-way of Fenton Street crossing  
74 Bonifant Street, Easley Street, Thayer Avenue, and Silver Spring Avenue, Sligo Avenue,  
75 to its intersection with Gist Avenue;
- 76 (10) then in a southern direction along the extension of the eastern right-of-way of Fenton  
77 Street crossing Gist Avenue to the extension of its intersection with the south right-of-  
78 way line of Gist Avenue;
- 79 (11) then in a western direction along the extension of the south right-of-way of Gist Avenue  
80 crossing Fenton Street to its intersection with the west right-of-way line of Fenton Street;
- 81 (12) then in a western direction approximately 260 feet to the extension of the northeast corner  
82 of Lot 44, Block C-1, Blair, as shown in Plat No. 23916, recorded November 20, 2008,  
83 among the land records of Montgomery County, Maryland;
- 84 (13) then in a south and southwesterly direction along the east line of Lot 44, as shown in Plat  
85 No. 23916, recorded November 20, 2008, among the land records of Montgomery  
86 County, Maryland, to the northeast right-of-way line of Philadelphia Avenue;
- 87 (14) then crossing Philadelphia Avenue to the intersection of the southwestern right-of-way  
88 line of Philadelphia Avenue and the east corner of Lot 58, Block H, Blair Section One, as  
89 shown in Plat No. 7074, recorded June 20, 1963, among the land records of Montgomery  
90 County, Maryland;
- 91 (15) then in a southwesterly direction along the lot line, which is the southeast line of Lot 58,  
92 Block H Blair section One as shown in Plat No. 7974, recorded June, 20, 1963, among  
93 the land records of Montgomery County, Maryland, to its intersection with the northeast  
94 lot line of Lot 34, Block H, Blair as shown in Plat No. 229, recorded June, 7, 1922,  
95 among the land records of Montgomery County, Maryland;
- 96 (16) then in a northwesterly direction along the northeast property line of Lot 34 to its  
97 intersection with the common lot line, which is the east line of Lot 35 and the west lot  
98 line of Lot 34, Block H, Blair, as shown in Plat 229, recorded June 7, 1922, among the  
99 land records of Montgomery County, Maryland;
- 100 (17) then in a southwesterly direction along the common line of Lot 35 and Lot 34, Block H,  
101 as shown in, Plat 229, recorded June 7, 1922, among the land records of Montgomery  
102 County, Maryland, to the intersection of the northeast right-of-way line of Selim Road;
- 103 (18) then in a southeasterly direction along the northeastern right-of-way line of Selim Road  
104 to its intersection with the northern right-of-way line of Burlington Avenue;
- 105 (19) then in a southwesterly direction along the extension of the northern right-of-way line of  
106 Burlington Avenue crossing Selim Avenue;
- 107 (20) then in a southwesterly direction along the northern right-of-way of Burlington Avenue to  
108 its intersection with the east right-of-way of Georgia Avenue;
- 109 (21) then in a western direction crossing Georgia Avenue to the western right-of-way;

- 110 (22) then in a southerly direction along the western right-of-way of Georgia Avenue to the  
111 point of beginning; and
- 112 (23) any lot that is partially within and partially outside of the areas under paragraphs (1)  
113 through (22).]]
- 114 (1) Beginning at a point on the Maryland-District of Columbia boundary line at the  
115 intersection of the west right-of-way of Georgia Avenue with the Maryland-District of  
116 Columbia boundary line, and running in a northwesterly direction along the Maryland-  
117 District of Columbia boundary line, and crossing Sixteenth Street along an extension of  
118 that boundary line to its intersection with the west right-of-way line of Sixteenth Street;
- 119 (2) Then in a northerly direction along the west right-of-way line of Sixteenth Street,  
120 crossing East-West Highway to its intersection with a southwesterly extension of the  
121 northerly right-of-way line of Spring Street;
- 122 (3) Then in a northeasterly direction along that extension crossing Sixteenth Street to its  
123 intersection with the east right-of-way line of Sixteenth Street;
- 124 (4) Then in a northeasterly direction along the northern right-of-way line of Spring Street,  
125 crossing Second Avenue, First Avenue, Georgia Avenue, and Alton Parkway, then  
126 southeasterly to its intersection with the northwest right-of-way line of Fairview Road;
- 127 (5) Then in a northeasterly direction approximately 390 feet along the northwest right-of-  
128 way line of Fairview Road to its intersection with the westward extension of the  
129 southwest line of Lots 1 and 2, Block B, Section 4, Woodside Park, as recorded January  
130 30, 1923, in Plat Book 3, Plat 244, among the land records of Montgomery County,  
131 Maryland;
- 132 (6) Then crossing Fairview Road in a southeasterly direction along the southwest line of Lots  
133 1 and 2, Block B, Section 4, Woodside Park, to its intersection with the southwest right-  
134 of-way line of Noyes Drive;
- 135 (7) Then in a southeasterly direction along the southwest right-of-way line of Noyes Drive to  
136 its intersection with the northwest right-of-way line of Colesville Road;
- 137 (8) Then crossing Colesville Road in a southeasterly direction to the intersection of the  
138 southeast right-of-way line of Colesville Road and the southwest line of the Silver Spring  
139 Public Library site, Parcel No. P959;
- 140 (9) Then along that line to the southeast right-of-way line of Ellsworth Drive;
- 141 (10) Then in a southwesterly direction along the southeast right-of-way line of Ellsworth  
142 Drive to its intersection with the common line of the Academy of the Holy Names site  
143 and the northeast line of Evanswood Sec. 1 Subdivision, also shown as the common lot  
144 line of Lot 9 and Lot 10, Evanswood Section One, as recorded March 2, 1932, in Plat  
145 Book 5, Plat 439 among the land records of Montgomery County, Maryland;
- 146 (11) Then in a southeasterly direction along the northeast lot lines of Lots 1 through 9 as  
147 shown in Plat Book 5, Plat 439, recorded March 2, 1932, among the land records of  
148 Montgomery County, Maryland, crossing Pershing Drive along an extension of that line  
149 to its intersection with the southeast right-of-way line of Pershing Drive;
- 150 (12) Then in a southwesterly direction along the southeast right-of-way line of Cedar Street;
- 151 (13) Then in a southeasterly direction along the northeast right-of-way line of Cedar Street,  
152 crossing Wayne Avenue, to its intersection with the southeast right-of-way line of Wayne  
153 Avenue;
- 154 (14) Then in a southwesterly direction along the southeast right-of-way line of Wayne Avenue  
155 for approximately 750 feet, to its intersection with the east lot line of Lot 24, Block 4, in  
156 Jordan's and Smith's Addition to Silver Spring Park, as recorded June 2, 1925, in Plat  
157 Book 4, Plat 301, among the land records of Montgomery County, Maryland;
- 158 (15) Then in a southeasterly direction along the east line of Lot 24 to the southeast corner of  
159 Lot 24;
- 160 (16) Then in a southwesterly direction approximately 15 feet to the northeast corner of Lot 14,  
161 Block 4, Jordan's and Smith's Addition to Silver Spring Park, as shown in Plat Book 4,  
162 Plat 301, recorded June 2, 1925, among the land records of Montgomery County,  
163 Maryland;

- 164           (17)   Then in a southeasterly direction along the east line of Lot 14, as shown in Plat Book 4,  
165                           Plat 301, recorded June 2, 1925, among the land records of Montgomery County,  
166                           Maryland, to the northwest right-of-way line of Bonifant Street;
- 167           (18)   Then in a southerly direction crossing Bonifant Street to the intersection of the  
168                           southeastern right-of-way line of Bonifant Street and the northeast corner of Lot 5, Block  
169                           U, Silver Spring Park, as shown in Plat Book 1, Plat 99, recorded April 4, 1909, among  
170                           the land records of Montgomery County, Maryland, which is also the same as the  
171                           northeast corner of Montgomery County Public Parking Facility 29;
- 172           (19)   Then in a southerly direction along the common lot line, which is the east line of Lot 5  
173                           and the west line of Lot 6 as shown in Plat Book 1, Plat 99, recorded April 4, 1909,  
174                           among the land records of Montgomery County, Maryland, crossing Easley Street along  
175                           the southern extension of that line to its intersection with the south right-of-way line of  
176                           Easley Street;
- 177           (20)   Then in a westerly direction along the south right-of-way line of Easley Street  
178                           approximately 50 feet to its intersection with the common lot line, which is the west line  
179                           of Lot 7 and the east lot line of Lot 28, Block P, Silver Spring Park, as shown in Plat  
180                           Book 1, Plat 99, recorded April 4, 1909, among the land records of Montgomery County,  
181                           Maryland;
- 182           (21)   Then in a southerly direction along the common line of Lot 7 and Lot 28, Block P and the  
183                           common line of Lot 18 and Lot 19, Block P, Silver Spring Park, as shown in Plat Book 1,  
184                           Plat 99, recorded April 4, 1909, among the land records of Montgomery County,  
185                           Maryland, crossing Thayer Avenue to the intersection of the south right-of-way line of  
186                           Thayer Avenue and the common lot line which is the east lot line of Lot 5 and the west  
187                           lot line of Lot 6, Block G, as shown on a "Map of Building Sites for Sale at Silver  
188                           Spring," as recorded May 23, 1904, in Plat Book 1, Plat 54, among the land records of  
189                           Montgomery County, Maryland;
- 190           (22)   Then in a southerly direction along the common lot line of Lot 5 and Lot 6, Block G, and  
191                           with an extension of that line to the south right-of-way line of a 20-foot alley dividing  
192                           Block G and Block H, as shown on the "Map of Building Sites for Sale at Silver Spring;"
- 193           (23)   Then in a westerly direction approximately 50 feet along the south line of that alley to its  
194                           intersection with the common lot line, which is the east line of Lot 4 and the west line of  
195                           Lot 5, Block H, as shown on the "Map of Building Sites for Sale at Silver Spring;"
- 196           (24)   Then in a southerly direction along the common lot line of Lot 4 and Lot 5, Block H, to  
197                           its intersection with the northern right-of-way line of Silver Spring Avenue;
- 198           (25)   Then crossing Silver Spring Avenue to the intersection of the southern right-of- way line  
199                           of Silver Spring Avenue and the common lot line, which is the east line of Lot 4 and the  
200                           west line of Lot 5, Block I, as shown on the "Map of Building Sites for Sale at Silver  
201                           Spring;"
- 202           (26)   Then in a southerly direction along the common lot line of Lot 4 and Lot 5, Block I,  
203                           crossing a 20-foot alley dividing Block I and Block J, as shown on the "Map of Building  
204                           Sites for Sale at Silver Spring," to its intersection with the south right-of-way line of that  
205                           alley and the common lot line, which is the east line of Lot 4 and the west line of Lot 5,  
206                           Block J, as shown on the "Map of Building Sites for Sale at Silver Spring;"
- 207           (27)   Then in a southerly direction along the common lot line of Lot 4 and Lot 5, Block J, to its  
208                           intersection with the northern right-of-way line of Sligo Avenue;
- 209           (28)   Then along a southern extension of that common lot line of Lot 4 and Lot 5, Block J, to  
210                           its intersection with the southern right-of-way line of Sligo Avenue;
- 211           (29)   Then in a northwesterly direction along the southern right-of-way line of Sligo Avenue to  
212                           its intersection with the northeast corner of Lot 19, Block A, shown on a plat of Blair  
213                           Section 1, recorded June 7, 1922, in Plat Book 3, Plat 229 among the land records of  
214                           Montgomery County, Maryland;
- 215           (30)   Then in a southerly direction along the east line of Lot 19, Block A, to its intersection  
216                           with the remainder of Lot 25, Block A, as shown on the plat of Blair Section 1, recorded  
217                           June 7, 1922, in Plat Book 3, Plat 229, among the land records of Montgomery County,  
218                           Maryland;

- 219 (31) Then in an easterly direction approximately 15 feet to its intersection with the northwest
- 220 corner of Lot 51, Block A, as shown on a plat of Blair Section 1, recorded November 16,
- 221 1935, in Plat Book 8, Plat 626, among the land records of Montgomery County,
- 222 Maryland;
- 223 (32) Then in a southerly direction along the west line of that Lot 51 to its intersection with the
- 224 northern right-of-way line of Gist Avenue;
- 225 (33) Then along a southerly extension of the west line of that Lot 51 to the southern right-of-
- 226 way line of Gist Avenue;
- 227 (34) Then in a westerly direction along the southern right-of-way line of Gist Avenue to its
- 228 intersection with the eastern right-of-way line of Fenton Street;
- 229 (35) Then in a southerly direction along the eastern right-of-way line of Fenton Street crossing
- 230 Philadelphia Avenue, Isington Street, and New York Avenue to its intersection with the
- 231 corporated limit line of the City of Takoma Park;
- 232 (36) Then in a southwesterly direction with the corporate limit line of the City of Takoma
- 233 Park crossing the northeast right-of-way line of the B & O Railroad to its intersection
- 234 with the southwest right-of-way line of the B & O Railroad;
- 235 (37) Then in a southeasterly direction with the southwest right-of-way line of the B & O
- 236 Railroad to its intersection with the northeast right-of-way line of Blair Road;
- 237 (38) Then in a northwesterly direction along the northeast right-of-way line of Blair Road to
- 238 its intersection with an extension of the southeast line of Parcel One, Yost's Addition to
- 239 Silver Spring, as shown in Plat Book 85, Plat 8874, recorded March 13, 1968, among the
- 240 land records of Montgomery County, Maryland;
- 241 (39) Then in a southwesterly direction along that line to its intersection with the northeast line
- 242 of Eastern Avenue, which is also the Maryland-District of Columbia boundary line;
- 243 (40) Then in a northwesterly direction along the Maryland-District of Columbia boundary line
- 244 to the point of beginning; and
- 245 (41) Any lot that is partially within and partially outside of the areas under paragraphs (1)
- 246 through (40).

**62-3. District Corporation.**

- 248 (a) Establishment. The owners of nonexempt property in the District established a district corporation
- 249 called the Downtown Silver Spring Business Improvement District, Inc. located at 8757 Georgia
- 250 Avenue, Silver Spring, MD 20910, and applied to the County to manage the District. The
- 251 application included:
- 252 (1) a statement setting forth:
- 253 (A) the proposed name and address of the district corporation; and
- 254 (B) the street address of each owner of nonexempt property within the District;
- 255 (2) a statement expressing the intent to establish a district corporation that is signed by:
- 256 (A) owners of at least 51% interest in the assessed value of the nonexempt property
- 257 and, subject to subsection (b) of this section, a designated board member of a
- 258 condominium or cooperative housing corporation within the proposed district;
- 259 and
- 260 (B) owners of at least 51% of the total number of parcels of nonexempt property
- 261 and, subject to subsection (b) of this section, a designated board member of a
- 262 condominium or cooperative housing corporation within the District;
- 263 (3) a proposed 3-year business plan that contains:
- 264 (A) the goals and objectives of the District;
- 265 (B) the annual proposed business improvement district tax for the proposed district's
- 266 common operations and the formula used to determine each member's district
- 267 tax; and
- 268 (C) the maximum amount and the nature of start-up costs incurred before the
- 269 District's establishment;
- 270 (4) a tax assessor's map of the geographic area of the District;
- 271 (5) a list of the proposed initial board of the proposed district corporation;
- 272 (6) the proposed articles of incorporation and the bylaws of the district corporation; and
- 273 (7) for all nonexempt property within the District;
- 274 (A) the name and mailing address of each owner; and

- 275 (B) the most recent assessed value.
- 276 (b) Condominiums or cooperative housing corporation may petition.
- 277 (1) Notwithstanding any other provision of this Chapter, subject to paragraph (2) of this
- 278 subsection, a condominium or cooperative housing corporation that is located in the
- 279 District may petition to join the district corporation.
- 280 (2) A condominium or cooperative housing corporation described under paragraph (1) of this
- 281 subsection may petition to join the District only if:
- 282 (A) the condominium or cooperative housing corporation is governed by a board;
- 283 (B) the board votes to join the district corporation; and
- 284 (C) the board has a representative member of the board sign the appropriate
- 285 documents required under subsection (b)(2) of this section.
- 286 (3) For the purposes of the votes cast under subsection (b)(2) of this section:
- 287 (A) a condominium or cooperative housing corporation shall be considered a single
- 288 parcel; and
- 289 (B) the decision reached by the board shall constitute the vote of the condominium
- 290 or cooperative housing corporation.

291 **62-4. Board of directors.**

- 292 (a) In general. A board of directors must govern the district corporation.
- 293 (b) Membership.
- 294 (1) Subject to paragraph (2) of this subsection, the board of a district corporation consists of
- 295 [[at least five members, but no more than]] nine members, appointed by the members of
- 296 the District.
- 297 (2) Appointment procedures.
- 298 (A) Until the first meeting of the board of directors, the entire board must consist of
- 299 the 8 directors constituting the initial board of directors, as set forth in the
- 300 district corporation's articles of incorporation. Thereafter, the entire board must
- 301 be comprised of [[such number of]] 9 directors [[that may be specified by
- 302 resolution of the board. The directors must be classified by the time the
- 303 directors hold office by dividing them into three classes, each of which shall
- 304 contain the same number of directors (if necessary, one (1) class may contain
- 305 one (1) more or one (1) less director than the other two (2) classes)]. After the
- 306 initial members, the directors must be elected by the members. At the time of
- 307 election, the Board must be comprised of:
- 308 (i) 3 representatives of an owner of property in the District assessed at
- 309 more than \$20 million;
- 310 (ii) 2 representatives of an owner of property in the District assessed at \$20
- 311 million or less;
- 312 (iii) 1 representative of a business employing more than 50 full-time
- 313 equivalent employees in the District; and
- 314 (iv) 3 representatives of a business employing 50 or less full-time
- 315 equivalent employees in the District.
- 316 The Board must not include both an owner and a tenant of the same property in
- 317 the District at the same time.
- 318 (B) The first election of directors by the members must be held within 120 days after
- 319 the date this law takes effect. Subsequent elections must be held annually as
- 320 provided in subparagraph C.
- 321 (C) The board must appoint a nominating committee, which must nominate a slate
- 322 of candidates for each annual election. Members may nominate additional
- 323 candidates at the meeting called for the purpose of electing directors. Members
- 324 and persons other than members are eligible to become directors. Only directors
- 325 may serve on a committee.
- 326 (i) Prior to the first election of directors, the nominating committee must
- 327 nominate three slates of candidates: one slate to serve as the first class
- 328 of directors for the term of 3 years; one slate to serve as the second
- 329 class of directors for the term of 2 years and one slate to serve as the
- 330 third class of directors for the term of 1 year. At the first election of

- 331 directors, the members must hold a separate election to elect each class
- 332 of directors.
- 333 (ii) At each annual election of directors thereafter, the successors to the
- 334 class of directors whose term expires that year must be elected for the
- 335 term of 3 years, so that the term of office of one class of directors
- 336 expires in each year.
- 337 (iii) For each election of directors, each member may cast no more than
- 338 their total number of votes for any one candidate. Directors must not
- 339 be elected through cumulative voting.
- 340 (iv) Each director elected by the members must serve until his or her
- 341 successor is elected, or until his or her earlier death, resignation or
- 342 removal in accordance with the district's bylaws.

343 (c) Chair; officers. From among its members, the board must elect a chair and other officers.

344 (d) Quorum.

345 (1) A majority of the voting members of the board is a quorum.

346 (2) The board may act on a resolution only by the affirmative vote of a majority of the voting

347 members.

348 (e) Compensation; reimbursement for expenses. A member of the board:

349 (1) must not receive compensation as a member of the board; but

350 (2) may be reimbursed for expenses incurred in performing the member's duties.

351 (f) Powers. The board must exercise its powers by resolution.

352 (g) Annual report. The board must file an annual report with the Executive and the Council that

353 includes:

354 (1) a financial statement for the preceding year;

355 (2) a proposed operating budget for the current fiscal year;

356 (3) any proposed revisions to the business plan; and

357 (4) a narrative statement or chart showing the results of operations in comparison to stated

358 goals and objectives.

359 **62-5. District corporation net earnings; powers.**

360 (a) Earnings. The net earnings of the district corporation must benefit only the district corporation.

361 (b) Powers.

362 (1) Except as limited by its articles of incorporation, the district corporation has all the

363 powers set forth in §§12-601 to 12-612 of the Economic Development Article of the

364 Annotated Code of Maryland and this Chapter.

365 (2) A district corporation may:

366 (A) receive money from the County, the State, other governmental units, or

367 nonprofit organizations;

368 (B) charge fees for its services;

369 (C) have employees and consultants as it considers necessary; and

370 (D) use the services of other governmental units.

371 (c) Use of powers. A district corporation must operate and exercise its powers solely to accomplish

372 one or more of the legislative purposes of §§12-601 to 12-612 of the Economic Development

373 Article of the Annotated Code of Maryland and this Chapter.

374 **62-6. Funding.**

375 (a) Preliminary business improvement district tax roll. Within 10 days after the effective date of this

376 law, the district corporation must provide the Executive and Council with a preliminary business

377 improvement district tax roll.

378 (b) Imposition of business improvement district tax.

379 (1) The Council must impose a business improvement district tax to provide funds for the

380 operation of the District.

381 (2) The Council must impose on members of the District the district tax at a rate specified by

382 the board and approved by the Council.

383 (3) The tax imposed under this subsection must not count against the limits on the ad

384 valorem weighted tax rate on real property [[tax revenue]] in Section 305 of the County

385 Charter.

- 386 (c) Collection. The district tax must be collected in the same manner as real property taxes are
- 387 collected and distributed each quarter to the District.
- 388 (d) Reimbursement for collection costs. The district corporation must reimburse the County for the
- 389 costs incurred in collecting the district tax.
- 390 (e) [[Parking Lot District fees.
- 391 (1) The Council may transfer revenue from parking fees to the district corporation received
- 392 from the fees that are collected in the District.
- 393 (2) The amount of revenue from parking fees transferred to the district corporation must not
- 394 exceed the amount calculated by multiplying:
- 395 (A) the number of parking spaces in the District by
- 396 (B) the number of enforcement hours per year by
- 397 (C) 20 cents.]]
- 398 Miscellaneous Revenue. All other revenues collected by a business improvement district
- 399 corporation, including charges for services and private contributions, must be used to benefit the
- 400 district corporation.

**62-7. District corporation duties.**

- 401 (a) In general. The district corporation must provide public services and facilities in the District that
- 402 are:
- 403 (1) primarily of benefit to the property and persons within the District rather than to the
- 404 County as a whole; and
- 405 (2) in addition to services and facilities that the County provides generally.
- 406 (b) Services. The district corporation must provide services that include [[:
- 407 (1) maintaining the streetscape and streetscape amenities on:
- 408 (A) public rights-of-way; and
- 409 (B) any property that is used by the general public;
- 410 (2)] promoting and programming public interest activities that benefit both residential and
- 411 commercial interests of the District (and which may incidentally benefit neighboring
- 412 communities) [[:
- 413 (3) providing additional streetscape amenities and facade improvements; and
- 414 (4) monitoring activities to enhance the safety and security of persons and property in public
- 415 areas of the District]].
- 416 (c) [[Allocation of duties. The Department is not responsible for streetscaping of the medians and
- 417 street sweeping inside the curbs in the District. The Department is responsible for other
- 418 maintenance inside, and including, the curbs. Outside of the curbs, the Department is only
- 419 responsible for repair of standard concrete sidewalks. The district corporation is responsible for
- 420 brick or other non-standard sidewalk maintenance. This allocation of functions may be altered by
- 421 written agreement between the Department and the district corporation.
- 422 (d)] Insurance. The district corporation must secure reasonable and appropriate insurance for its
- 423 activities
- 424

**62-8. Expansion of the District.**

- 425 (a) Expansion by the District. The District may expand the geographic area of the District if:
- 426 (1) a petition for inclusion is submitted from:
- 427 (A) owners of at least 51% interest in the assessed value of the nonexempt property
- 428 and, subject to subsection (b) of this section, a designated board member of a
- 429 condominium or cooperative housing corporation proposed for inclusion in the
- 430 district; and
- 431 (B) owners of at least 51% of the total number of parcels of nonexempt property
- 432 and, subject to subsection (b) of this section, a designated board member of a
- 433 condominium or cooperative housing corporation proposed for inclusion in the
- 434 district;
- 435 (2) the petition under paragraph (1) of this subsection is accepted by a majority vote of the
- 436 board of the district corporation; and
- 437 (3) the appropriate documents, as applicable, are submitted under §12-608 of the Economic
- 438 Development Article of the Annotated Code of Maryland and a hearing is held under
- 439 §12-609 of the Economic Development Article.
- 440 (b) Expansion by condominium or cooperative housing corporation.
- 441



- 442 (1) Notwithstanding any other provision of this title and subject to paragraph (2) of this
- 443 subsection, a condominium or cooperative housing corporation that is in the proposed
- 444 expanded geographic area of the District may petition to join the expansion.
- 445 (2) A condominium or cooperative housing corporation described under paragraph (1) of this
- 446 subsection may petition to join the expansion only if:
- 447 (A) the condominium or cooperative housing corporation is governed by a board;
- 448 (B) the board votes to join the district corporation; and
- 449 (C) the board has a representative member of the board sign the appropriate
- 450 documents required under §12-608 of the Economic Development Article.
- 451 (3) For the purposes of the votes cast under subsection (a)(1):
- 452 (A) a condominium or cooperative housing corporation must be considered a single
- 453 parcel; and
- 454 (B) the decision reached by the board must constitute the vote of the condominium
- 455 or cooperative housing corporation.

**62-9. Review and evaluation of the District.**

- 457 (a) Review; development of procedures for evaluation. The Executive must:
- 458 (1) review the effectiveness and desirability of continuing the district every 3 years
- 459 beginning from the time this Act takes effect;
- 460 (2) develop by method 2 regulation policies and procedures for evaluating the desirability of
- 461 continuing the District; and
- 462 (3) recommend to the Council whether the District should continue.
- 463 (b) Effect of disapproval. If the Council adopts a resolution disapproving of the continuing existence
- 464 of the District:
- 465 (1) the District must cease to exist as directed by the Council; and
- 466 (2) the district corporation must continue its existence only as long as necessary to terminate
- 467 operation in a reasonable manner.