

MEMORANDUM

April 1, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*
Jeffrey L. Zyontz, Senior Legislative Attorney *J. Zyontz*

SUBJECT: **Public Hearing/Action:** Bill 8-16, Zoning Rewrite – Revisions, Clarifications and Corrections

Bill 8-16, Zoning Rewrite – Revisions, Clarifications and Corrections, sponsored by Lead Sponsor County Council, was introduced on March 15, 2016. Action is scheduled following this hearing.

Bill 8-16 would correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law. These changes are necessary to conform the County Code to the Zoning Ordinance after the Council's adoption of Zoning Ordinance 13-04 and subsequent amendments.

After introduction, additional corrections were necessary. These changes, which were incorporated into the attached bill, are:

- Page 14, lines 292-295: show second sentence of current §23A-3(g) that was inadvertently omitted
- Page 21, lines 496-497: update Zoning Ordinance reference

This packet contains:	<u>Circle #</u>
Bill 8-16	1
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Bill No. 8-16
Concerning: Zoning Rewrite – Revisions,
Clarifications, and Corrections
Revised: 3/28/2016 Draft No. 3
Introduced: March 15, 2016
Expires: September 15, 2017
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

AN ACT to correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of County law necessary after the Council's adoption of Zoning Ordinance 13-04 and subsequent amendments.

By amending

Montgomery County Code
Chapter 2, Administration
Sections 2-55, 2-112, 2-137, 2-140, and 2-150

Chapter 2B, Agricultural Land Preservation
Sections 2B-1, 2B-8, and 2B-17

Chapter 5, Animal Control
Section 5-203

Chapter 19, Erosion, Sediment Control and Stormwater Management
Sections 19-3, 19-62, 19-64, and 19-65

Chapter 22A, Forest Conservation – Trees
Sections 22A-3, 22A-4, 22A-11, and 22A-12

Chapter 23A, Group Homes
Section 23A-3

Chapter 25A, Housing, Moderately Priced
Sections 25A-2, 25A-3, 25A-5, 25A-10, and 25A-11

Chapter 25B, Housing Policy
Sections 25B-22 and 25B-27

Chapter 31B, Noise Control
Section 31B-2

Chapter 42A, Ridesharing and Transportation Management
Sections 42A-5 and 42A-8

Chapter 52, Taxation
Sections 52-47, 52-55, 52-89, and 52-93

Chapter 60, Silver Spring, Bethesda, Wheaton and Montgomery Hills Parking Lot Districts
Sections 60-5, 60-6, 60-7, 60-8, 60-10, and 60-11

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

21 **2-137. Definitions.**

22 [(a)] The following terms [wherever used or referred to] in this [article shall
23 have the following meanings] Article have the meanings indicated,
24 unless a different meaning is clearly indicated in the context:

25 [(b)] *Public facility* [shall mean] means any parcel of land of one (1) acre or
26 more, with or without buildings or other capital improvements, devoted
27 to public use, including roads, highway interchanges, rapid transit lines
28 and stations, parking garages, schools, colleges, hospitals, health
29 centers, government office buildings, fire and police stations, parks,
30 recreation centers, golf courses, sanitary landfills, and any other
31 significant facility whose construction is an established public purpose.

32 [(c)] *Public facility area* [shall mean] means a public facility site plus that
33 limited land area adjacent to an existing or proposed major public
34 facility where at least one of the following conditions exists:

35 * * *

36 (d) *Public facility area plan* [shall mean] means a site development plan, as
37 it exists from time to time, specifying generally or in exact detail, as
38 may be judged appropriate in specific instances by the county council
39 and county executive, the location and types of land uses, activities, and
40 improvements directed or permitted to take place both on the site
41 occupied by the public facility and on the adjacent land acquired within
42 the public facility area.

43 * * *

44 **2-140. Powers, duties and functions.**

45 (a) The Office of Zoning and Administrative Hearings must:

46 * * *

47 (4) [forward] produce a written report, with a [recommendation for]
48 decision, to the body that assigned the matter, including findings
49 of fact and conclusions of law where required or appropriate;

50 * * *

51 (c) The Office may hear, and submit a written report and [recommendation]
52 decision to the specified officer or body on, any:

53 (1) petition to the County Council to [grant,] modify[,] or revoke a
54 special exception or conditional use, as provided in Chapter 59;

55 * * *

56 **2-150. People's Counsel-Functions.**

57 * * *

58 (b) *Authority; duties.* To protect the public interest and achieve a full and
59 fair presentation of relevant issues, the People's Counsel may participate
60 in a proceeding before:

61 * * *

62 (2) the County Council (solely for oral argument) or the Hearing
63 Examiner for the County Council if the matter involves a local
64 map amendment, a [development or schematic development]
65 floating zone plan approved under the zoning process or a
66 [special exception] conditional use; and

67 * * *

68 **2B-1. Definitions.**

69 In this Chapter, the following words and phrases [shall] have the meanings
70 indicated:

71 * * *

72 *Farm Market* means a [farm market] Farm Market, On-site as defined
73 in Chapter 59.

74 * * *

75 **2B-8. Activities and uses permitted on land under a County agricultural**
76 **easement.**

77 * * *

78 (b) *Relation to special exceptions and conditional uses.* Subsection (a)
79 does not alter either the requirements in Chapter 59 for a special
80 exception or conditional use applicable to the zone where a County
81 easement is located or the process to obtain a special exception or
82 conditional use. However, an agricultural easement may expressly limit
83 the right of the landowner or any successor in interest to apply for a
84 special exception or conditional use that is inconsistent with the
85 purposes of this Article.

86 * * *

87 **2B-17. BLT Account.**

88 * * *

89 (b) The BLT Account must contain payments made to comply with
90 conditions of approval which the Planning Board has imposed for
91 certain [development] plans, and may also contain funds received
92 through donation, appropriation, bond proceeds, or any other source.

93 * * *

94 **5-203. Public nuisance and other violations.**

95 (a) Violation. An owner must not:

96 * * *

97 (8) Allow a domestic or exotic bird, including a homing pigeon, to
98 be in an aviary within 100 feet of any structure owned or leased
99 by another person and used for human habitation or work. This
100 paragraph does not apply to a bird:

101 * * *

102 (C) in an [agricultural] Agricultural or Rural Residential zone
103 as defined in Chapter 59; or

104 * * *

105 **19-3. Application for permit.**

106 * * *

107 (e) A permit must not be issued to a person who must comply with Chapter
108 22A until a final forest conservation plan is approved and any required
109 financial security is provided. However, a permit may be issued before a
110 final forest conservation plan is approved if the land-disturbing activity
111 is specified on the approved preliminary plan of subdivision,
112 preliminary forest conservation plan, project plan, development plan,
113 sketch plan, floating zone plan, or approved plan amendment. Any
114 land-disturbing activity must comply with all terms and conditions of
115 the permit.

116 * * *

117 **19-62. Applicability.**

118 * * *

119 (b) *Privately owned property.* Except as otherwise expressly provided in
120 this Chapter, the requirements for a water quality inventory and a
121 preliminary and final water quality plan under Section 19-64 apply in
122 any area designated as a special protection area to a person proposing a
123 land-disturbing on privately owned property:

- 124 (1) who is required by law to obtain approval of a development plan,
125 diagrammatic plan, schematic development plan, project plan,
126 special exception, sketch plan, floating zone plan, conditional
127 use, preliminary plan of subdivision, or site plan; or

128 (2) who is seeking approval of an amendment to an approved
129 development plan, diagrammatic plan, schematic development
130 plan, project plan, special exception, sketch plan, floating zone
131 plan, conditional use, preliminary plan of subdivision, or site
132 plan.

133 * * *

134 **19-64. Water Quality Inventory Submittal; Water Quality Plans.**

135 (a) *Water quality inventory submittal.* A person who is required under
136 Section 19-62 to comply with this Article must submit the following
137 documents as part of a proposed development plan, diagrammatic plan,
138 schematic development plan, project plan, preliminary plan of
139 subdivision, site plan, [or] special exception, sketch plan, floating zone
140 plan, or conditional use, whichever is first required. Each submission
141 must be reviewed by the receiving agency as part of the plan or permit
142 application, as provided by law.

143 * * *

144 (c) *Final water quality plan submission.* A final water quality plan must be
145 submitted as provided in Section 19-65 and must include the following:

146 * * *

147 (6) Terms, conditions, and requirements as established in the
148 approved preliminary water quality plan, or in the case of a
149 preliminary water quality plan in conjunction with a development
150 approval before the District Council, the terms, conditions, and
151 requirements as required to be revised by the Planning Board or
152 DPS Director to conform to the District Council action on
153 the development plan, schematic plan, floating zone plan, or
154 diagrammatic plan;

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19-65. Application, review, and approval procedures.

(a) *General.*

(1) *Coordinated with project review.* Water quality review, including submittal and review of the preliminary and final water quality plans, where required, must be done in conjunction with the review process for a development plan, diagrammatic plan, schematic development plan, project plan, preliminary plan of subdivision, site plan, [or] sketch plan, floating zone plan, conditional use, or special exception, in accordance with this Section. The Planning Director must coordinate review of the water quality plan with the DPS Director.

* * *

(b) *Application.*

(1) The applicant must submit to the Planning Director a preliminary water quality plan as part of a complete application for a development plan, diagrammatic plan, schematic plan, project plan, sketch plan, floating zone plan, preliminary plan of subdivision, or site plan, whichever is first required. For a special exception or conditional use that is subject to this Chapter, the applicant must submit a preliminary water quality plan as part of the special exception or conditional use application to the Board of Appeals. For a project on publicly owned property, the agency or department should submit the water quality plan in conjunction with the mandatory referral process.

* * *

(d) *Condition of approval.*

182 (1) In the case of a water quality plan in conjunction with an
 183 amendment to a development plan, schematic development plan,
 184 [or] diagrammatic plan, sketch plan, or floating zone plan,
 185 Planning Board action on the water quality plan must conform to
 186 Section [59-D-1.23, Section 59-D-2.53, and Section 59-D-4.61,
 187 respectively] 7.2.1.E or Section 7.7.1.B of Chapter 59.

188 * * *

189 **22A-3. Definitions.**

190 In this Chapter, the following terms have the meanings indicated:

191 * * *

192 *Development plan* means a plan or an amendment to a plan approved under
 193 [Division 59-D-1] Section 7.7.1.B of Chapter 59 or a floating zone plan
 194 approved under Section 7.2.1 of Chapter 59.

195 * * *

196 *Planned unit development* means a development comprised of a combination
 197 of land uses or varying intensities of the same land use, having at least [20
 198 percent] 20% of the land permanently dedicated to [open space] green area,
 199 and [in accordance with] under an integrated plan that provides flexibility in
 200 land use design approved [by the District Council under Division 59-D-1 or]
 201 by the Planning Board under [Division 59-D-2] Section 7.2.1 of Chapter 59.

202 * * *

203 *Project plan* means a plan or an amendment to a plan approved under
 204 [Division 59-D-2] Section 7.7.1.B of Chapter 59 or a sketch plan approved
 205 under Section 7.3.3 of Chapter 59.

206 * * *

207 *Site plan* means a plan or an amendment to a plan approved under [Division
 208 59-D-3] Section 7.3.4 of Chapter 59.

209 *Special exception* means a use approved as a conditional use under [Article 59-
 210 G] Section 7.3.1 or Section 7.7.1.B of Chapter 59.

211 * * *

212 **22A-4. Applicability.**

213 Except as otherwise expressly provided in this Chapter, this Chapter applies
 214 to:

- 215 (a) a person required by law to obtain an approval or amendment to a
 216 development plan, diagrammatic plan, project plan, floating zone plan,
 217 sketch plan, preliminary plan of subdivision, or site plan;

218 * * *

219 **22A-11. Application, review, and approval procedures.**

- 220 (a) *General.*

- 221 (1) *Coordinated with project review.* The forest stand delineation and
 222 forest conservation plan must be submitted and reviewed in
 223 conjunction with the review process for a development plan,
 224 floating zone plan, project plan, sketch plan, preliminary plan of
 225 subdivision, site plan, special exception, conditional use,
 226 mandatory referral, or sediment control permit [in accordance
 227 with] under this Section. The Planning Director must coordinate
 228 review of the forest conservation plan with the Director of
 229 Environmental Protection, the Director of Permitting Services,
 230 the Washington Suburban Sanitary Commission, other relevant
 231 regulatory agencies, and entities that will provide public utilities
 232 to the tract, to promote consistency between the objectives of this
 233 Chapter and other development requirements. To the extent
 234 practicable, entities providing public utilities should design

235 facilities that will serve a tract in a manner that avoids identified
 236 conservation areas and minimizes tree loss.

237 * * *

238 (b) *Project requiring development plan, floating zone plan, project plan,*
 239 *sketch plan, preliminary plan of subdivision, or site plan approval.*

240 (1) *Forest stand delineation.* The applicant must submit to the
 241 Planning Director a forest stand delineation with the application
 242 for a development plan, floating zone plan, project plan, sketch
 243 plan, preliminary plan of subdivision, or site plan, whichever
 244 comes first. Within 30 days of receipt, the Planning Director must
 245 notify the applicant whether the forest stand delineation is
 246 complete and correct. If the Planning Director fails to notify the
 247 applicant within 30 days, the delineation will be treated as
 248 complete and correct. The Planning Director may require further
 249 information or provide for one extension of this deadline for an
 250 additional 15 days for extenuating circumstances.

251 (2) *Forest conservation plan.*

252 * * *

253 (C) *Approval.* The Planning Board must review and act on the
 254 forest conservation plan concurrently with the development
 255 plan, floating zone plan, project plan, sketch plan, preliminary
 256 plan of subdivision, or site plan, as appropriate. Compliance
 257 with the preliminary forest conservation plan, as amended by
 258 the Board, must be made a condition of any approval of the first
 259 applicable development application. Compliance with the final
 260 forest conservation plan, as amended by the Board, must be
 261 made a condition of any approval of the last development

262 application. For a development plan or a floating zone plan, a
263 Planning Board recommendation to the District Council on the
264 preliminary forest conservation plan must be made under
265 Section [59-D-1.4] 59-7.2.1. A final forest conservation plan
266 must be approved by the Planning Board or Planning Director,
267 as appropriate, before the Planning Board approves a record
268 plat.

269 * * *

270 **22A-12. Retention, afforestation, and reforestation requirements.**

271 * * *

272 (e) *Standards for reforestation and afforestation.*

273 * * *

274 (6) *Planned Unit Developments; Other Staged Development.*

275 Notwithstanding any other provision of this Section, the Planning
276 Board may allow any afforestation or reforestation requirement
277 for a planned unit development to be calculated and satisfied
278 within the total area covered by the development plan, floating
279 zone plan, sketch plan, or project plan instead of the net tract
280 area. Similarly, the Planning Board may allow any afforestation
281 or reforestation requirement applicable to a staged development
282 subject to a single preliminary plan of subdivision but with
283 separate site plan reviews for each stage to be calculated and
284 satisfied using the total area covered by the preliminary plan of
285 subdivision.

286 * * *

287 **23A-3. Applicability of chapter.**

288 This [chapter] Chapter does not apply to a:

289 * * *

290 (g) group of persons, not related by blood or marriage, living together in a
 291 dwelling unit as a [family] household as defined in Chapter 59.
 292 Supportive care services and treatment for individual residents or the
 293 group may be provided by a person or agency that does not assume
 294 responsibility for acquiring those services or treatments or for
 295 supervising, directing, or controlling the residents.

296 **25A-2. Declaration of public policy.**

297 The County Council hereby declares it to be the public policy of the County
 298 to:

299 * * *

300 (6) Ensure that private developers constructing moderately priced dwelling
 301 units under this Chapter incur no loss or penalty as a result thereof, and
 302 have reasonable prospects of realizing a profit on such units by virtue of
 303 the MPDU density bonus [provision] or public benefit provisions of
 304 Chapter 59 and, in certain zones, the optional development standards;
 305 and

306 * * *

307 **25A-3. Definitions.**

308 The following words and phrases, as used in this Chapter, have the following
 309 meanings:

310 * * *

311 (r) Optional density bonus provision means any increase in density under
 312 Chapter 59, in a zoning classification that allows residential
 313 development, above the amount permitted in the base or standard
 314 method of development [density], whether by exercise of the optional
 315 provisions of Chapter 59 or by any special exception or conditional use.

316 * * *

317 **25A-5. Requirement to build MPDUs; agreements**

318 (a) The requirements of this Chapter to provide MPDUs apply to any
319 applicant who:

320 * * *

321 (3) with respect to land in a zone not subject to subdivision approval
322 or site plan review, applies for a building permit to construct a
323 total of 20 or more dwelling units at one location.

324 In calculating whether a development contains a total of 20 or more
325 dwelling units for the purposes of this Chapter, the development
326 includes all land at one location in the County available for building
327 development under common ownership or control by an applicant,
328 including land owned or controlled by separate corporations in which
329 any stockholder or family of the stockholder owns 10 percent or more
330 of the stock. An applicant must not avoid this Chapter by submitting
331 piecemeal applications or approval requests for subdivision plats, site
332 or development plans, floating zone plans, or building permits. Any
333 applicant may apply for a preliminary plan of subdivision, site
334 or development plan, floating zone plan, record plat, or building permit
335 for fewer than 20 dwelling units at any time; but the applicant must
336 agree in writing that the applicant will comply with this Chapter when
337 the total number of dwelling units at one location reaches 20 or more.

338 * * *

339 (c) When the development at one location is in a zone where a density
340 bonus is allowed; and

341 (1) is covered by a plan of subdivision[.];

342 (2) is covered by a plan of development, [or a] site plan, or floating
343 zone plan; or

344 (3) requires a building permit to be issued for construction, the
345 required number of moderately priced dwelling units is a variable
346 percentage that is not less than [12.5 percent] 12.5% of the total
347 number of dwelling units at that location, not counting any
348 workforce housing units built under Chapter 25B. The required
349 number of MPDUs must vary according to the amount by which
350 the approved development exceeds the normal or standard
351 density for the zone in which it is located. Chapter 59 [permits]
352 may permit bonus densities over the presumed base density
353 where MPDUs are provided. If the use of the optional MPDU
354 development standards does not result in an increase over the
355 base density, the Director must conclude that the base density
356 could not be achieved under conventional development standards,
357 in which case the required number of MPDUs must not be less
358 than [12.5 percent] 12.5% of the total number of units in the
359 subdivision. The amount of density bonus achieved in the
360 approved development determines the percentage of total units
361 that must be MPDUs, as follows:

362 * * *

363 **25A-10. Executive regulations; enforcement.**

364 * * *

365 (b) This Chapter applies to all agents, successors and assigns of an
366 applicant. A building permit must not be issued, and a preliminary plan
367 of subdivision, development plan, floating zone plan, or site plan must
368 not be approved unless it meets the requirements of this Chapter. The

369 Director of Permitting Services may deny, suspend or revoke any
370 building or occupancy permit upon finding a violation of this Chapter.
371 Any prior approval of a preliminary plan of subdivision, development
372 plan, floating zone plan, or site plan may be suspended or revoked upon
373 the failure to meet any requirement of this Chapter. An occupancy
374 permit must not be issued for any building to any applicant, or a
375 successor or assign of any applicant, for any construction which does
376 not comply with this Chapter.

377 * * *

378 **Sec. 25A-11. Appeals.**

379 (a) Any person aggrieved by any denial, suspension, or revocation of a
380 building or occupancy permit or denial, suspension, or revocation of
381 approval of a preliminary plan of subdivision, development plan,
382 floating zone plan, or site plan may appeal to the official, agency, board,
383 Commission, or other entity designated by law to hear such appeal.

384 * * *

385 **25B-22. Compliance.**

386 * * *

387 (c) *Violations.*

388 * * *

389 (2) The Planning Board may revoke any previously approved
390 preliminary plan of subdivision, sketch plan, or site plan,
391 [or development plan,] upon finding a violation of this Article.

393 **25B-27. Compliance.**

394 * * *

395 (c) *Violations; enforcement.*

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(2) An occupancy permit must not be issued for any building to any applicant, or a successor or assign of any applicant, for any construction which does not comply with this Chapter. The Director of Permitting Services may deny, suspend, or revoke any applicable building or occupancy permit if the Director finds that the applicant or permittee has committed a violation of this Article. The Planning Board may revoke any previously approved preliminary plan of subdivision, site plan, or [development plan,] sketch plan, if the Board finds a violation of this Article.

31B-2. Definitions.

In this Chapter, the following words and phrases have the following meanings:

* * *

Noise area means a residential or non-residential noise area:

- (1) *Residential noise area* means land in a zone established under Section [59-C-1.1, Section 59-C-2.1, Division 59-C-3, Section 59-C-6.1, Section 59-C-7.0, Section 59-C-8.1, Section 59-C-9.1] 2.1.3.A of Chapter 59 for which the owner has not transferred the development rights, or [Section 59-C-10.1 or land within similar zones established in the future] Sections 2.1.3.B, 2.1.3.C, 2.1.3.D, 2.1.3.G, 2.1.3.H.1, or 2.1.3.H.2 of Chapter 59, or by a political subdivision where Chapter 59 does not apply.
- (2) *Non-residential noise area* means land within a zone established under Section [59-C-4.1, Section 59-C-5.1, Section 59-C-9.1] 2.1.3.A of Chapter 59, for which the owner has transferred the development rights, or [Division 59-C-12 or land in similar zones established in the future]

423 Sections 2.1.3.E, 2.1.3.F, 2.1.3.H.3, or 2.1.3.H.4 of Chapter 59, or by a
 424 political subdivision where Chapter 59 does not apply.

425 * * *

426 **42A-5. Reductions in parking requirements.**

427 (a) *In share-a-ride districts or share-a-ride outreach areas.* Under
 428 [chapter 59, article E of this Code] Section 6.2.3.G.2 of Chapter 59, an
 429 office development in a share-a-ride district or share-a-ride outreach
 430 area may obtain a reduction in its minimum parking requirements if the
 431 office development participates in:

432 * * *

433 (b) *In other areas.* Under [chapter 59, article E of this Code] Section
 434 6.2.3.I of Chapter 59, an office development not in a share-a-ride district
 435 or a share-a-ride outreach area may obtain a reduction in its minimum
 436 parking requirements if the office development [provides private
 437 ridesharing incentives] undertakes other adjustments to vehicle parking.

438 **42A-8. Agreement recorded in land records.**

439 (a) Before a building permit for a facility that has been constructed with
 440 planned participation in the share-a-ride program under this [chapter]
 441 Chapter is issued, the [director] Director or the [planning board shall]
 442 Planning Board must require the owner of an office development to
 443 execute an agreement that is binding on that owner as well as all
 444 subsequent owners of the office development.

445 (b) The agreement [shall] must provide:
 446 (1) [For] for the participation of the owner or subsequent owners in
 447 the share-a-ride program [under this chapter and chapter 59,
 448 article E of this Code]; and

449 (2) [That] that if the owner or a subsequent owner fails to comply
450 with the terms of [chapter 59, article E of this Code] the
451 agreement, the owner or the subsequent owner will be liable for
452 the penalties under this [chapter] Chapter.

453 (c) The owner of the office development [shall] must record the
454 agreement in the [land records of the county] County land records.

455

456 **52-47. Definitions.**

457 In this Article the following terms have the following meanings:

458 * * *

459 Residential means the use of a building as a dwelling unit.

460 * * *

461 (4) Multifamily-senior residential means:

462 (A) multifamily housing and related facilities for elderly or
463 handicapped persons, as defined in Section [59-A-2.1] 59-1.4.2,
464 with occupancy restricted as provided in Section [59-G-2.35(b)]
465 59-3.3.2.C;

466 (B) multifamily housing units located in the age-restricted section
467 of a planned retirement community, as defined in Section
468 [59-C-7.441] 59-8.3.5; and

469 (C) a domiciliary care home, as defined in Section [59-A-2.1]
470 59-1.4.2 and subject to Section [59-G-2.37] 59-3.3.2.E, which
471 consists of separate assisted living units.

472 * * *

473 **Sec. 52-55. Credits.**

474 * * *

475 (b) A property owner must receive a credit for constructing or contributing
476 to an improvement of the type listed in Section 52-58 if the
477 improvement reduces traffic demand or provides additional
478 transportation capacity. However, the Department must not certify a
479 credit for any improvement in the right-of-way of a State road, except a
480 transit or trip reduction program that operates on or relieves traffic on a
481 State road or an improvement to a State road that is included in a
482 memorandum of understanding between the County and either
483 Rockville or Gaithersburg.

484 * * *

485 (3) An applicant for subdivision, site plan, or other development
486 approval from the County, Gaithersburg, or Rockville, or the
487 owner of property subject to an approved subdivision
488 plan, development plan, floating zone plan, or similar
489 development approval, may seek a declaration of allowable
490 credits from the Department of Transportation.

491 * * *

492 **52-89. Imposition and applicability of tax.**

493 * * *

494 (c) The tax under this Article must not be imposed on:

495 * * *

496 (3) any Personal Living Quarters unit built under [[Sec. 59-A-
497 6.15]] Section 59-3.3.2.D, which meets the price or rent
498 eligibility standards for a moderately priced dwelling unit under
499 Chapter 25A;

500 * * *

501 **52-93. Credits.**

502 * * *

503 (d) An applicant for subdivision, site plan, or other development approval

504 from the County, Gaithersburg, or Rockville, or the owner of property

505 subject to an approved subdivision plan, development plan, floating

506 zone plan, or similar development approval, may seek a declaration of

507 allowable credits from MCPS. CPS must decide, within 30 days after

508 receiving all necessary materials from the applicant, whether any public

509 school improvement which the applicant has constructed, contributed

510 to, or intends to construct or contribute to, will receive a credit under

511 this subsection. If during the initial 30-day period after receiving all

512 necessary materials, MCPS notifies the applicant that it needs more time

513 to review the proposed improvement, MCPS may defer its decision an

514 additional 15 days. If MCPS indicates under this paragraph that a

515 specific improvement is eligible to receive a credit, the Director of

516 Permitting Services must allow a credit for that improvement. If MCPS

517 cannot or chooses not to perform any function under this subsection or

518 subsection (c), the Department of Permitting Services must perform that

519 function.

520 * * *

521 **60-5. [Same] Off-street parking facilities-Location.**

522 * * *

523 **60-6. [Same] Off-street parking facilities-Exemption or reduction from tax**

524 **where provided.**

525 (a) *Tax exemption.* If the owner or lessee of real property or tangible

526 personal property in a parking lot district provides off-street parking

527 facilities that comply with all the requirements of [article 59-E] Division

528 6.2 of [chapter] Chapter 59 [of this Code], the real property and tangible

529 personal property [shall] must be exempt from the taxes levied under
530 [section] Section 60-3 [of this chapter].

531 * * *

532 (c) To be eligible for a reduction under subsection (b) of this [section]
533 Section:

534 * * *

535 (2) The owner or lessee [shall] must provide off-street parking
536 facilities that comply with all of the requirements of [article 59-E]
537 Division 6.2 of [chapter] Chapter 59 [of this code], except for the
538 schedule of required parking spaces;

539 * * *

540 (5) The following schedule of off-street parking spaces, as a
541 percentage of the "schedule of requirements" under [chapter 59,
542 article 59-E of this Code] Division 6.2 of Chapter 59, must be
543 provided:

544 * * *

545 **60-7. [Same] Off-street parking facilities-Location of with reference to**
546 **establishment served by.**

547 * * *

548 **60-8. [Same] Off-street parking facilities-Availability to public or customers**
549 **required for exemption.**

550 * * *

551 **60-10. [Same] Off-street parking facilities-County authorized to lease, operate,**
552 **and maintain.**

553 * * *

554 **60-11. [Same] Off-street parking facilities-Lease to Montgomery County**
555 **Revenue Authority.**

556

LEGISLATIVE REQUEST REPORT

Bill 8-16

Zoning Rewrite – Revisions, Clarifications and Corrections

DESCRIPTION: Makes technical, typographical, grammatical, and other corrections to County law necessary to conform the County Code to the Zoning Ordinance after the Council's adoption of Zoning Ordinance 13-04 and subsequent amendments.

PROBLEM: Comprehensively amending the Zoning Ordinance requires that the County Code be updated to conform to the Zoning ordinance. Otherwise, provisions that conflict with the Zoning Ordinance could confuse a person trying to follow or enforce County law.

GOALS AND OBJECTIVES: To correct technical and other errors in the County Code.

COORDINATION: Council legal staff.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: Not applicable.

EXPERIENCE ELSEWHERE: Not applicable.

SOURCE OF INFORMATION: Amanda Mihill, Council Staff (240) 777-7815
Jeffrey Zyontz, Council Staff (240) 777-7896

APPLICATION WITHIN MUNICIPALITIES: The applicability of other provisions in municipalities follows the applicability of the underlying provision of the County Code.

PENALTIES: Not applicable.