

Ordinance No.: 19-31
Zoning Text Amendment No.: 22-02
Concerning: Density and Height
Limits[[, Parking]] –
Biohealth
Draft No. & Date: 3 – 6/28/2022
Introduced: March 15, 2022
Public Hearing: June 14, 2022
Adopted: July 26, 2022
Effective: August 15, 2022

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

Lead Sponsor: Councilmember Friedson
Co-Sponsors: Councilmembers Hucker, Katz, Navarro, Council President Albornoz, Council
Vice-President Glass, Councilmember Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow additional height for certain scientific uses;
- allow greater flexibility in density allocation for certain scientific uses;
- ~~[[amend the use standards for Biohealth Priority Campuses;]]~~and
- generally amend the provisions for certain scientific uses.

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code:

[[Division 3.5.	“Commercial Uses”
Section 3.5.8.	“Office and Professional”]]
Division 4.5.	“Commercial/Residential Zones”
Section 4.5.2.	“Density and Height Allocation”
<u>Section 4.5.4.</u>	<u>“Optional Method Development”</u>
Division 4.6.	“Employment Zones “
Section 4.6.2.	“Density and Height Allocation”
<u>Section 4.6.4.</u>	<u>“Optional Method Development”</u>
<u>Division 4.8</u>	<u>“Industrial Zones”</u>
<u>Section 4.8.3.</u>	<u>“Standard Method Development”</u>

[[Division 6.2. “Parking, Queuing, and Loading”
Section 6.2.4. “Parking Requirements”]]

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 22-02, Density and Height Limits – Biohealth, was introduced on March 15, 2022, by lead sponsor Councilmember Friedson, co-sponsors Councilmembers Huckler, Katz, Navarro, Council President Albornoz, Council Vice-President Glass, and Councilmember Riemer.

ZTA 22-02 will allow additional height and increased flexibility in density for urban biohealth facilities in the CR, LSC, and EOF zones in recognition of the unique mechanical challenges of biohealth buildings. ZTA 22-02 would apply to Research and Development or Medical/Scientific Manufacturing and Production uses that are located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway. The development must front on a street classified as an arterial roadway or higher classification; and the development site cannot abut or confront a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use. Additional height can be achieved in two ways. First, a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. Second, additional height can be achieved through height averaging, where a building or portion of a building can increase its height by lowering the height of another building or portion of a building. Applicants may choose either the 1.5 multiplier, height averaging, or both.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) impact statement on April 22, 2022. OLO found that ZTA 22-02 could have a small negative impact on racial equity and social justice as its benefits would disproportionately accrue to white business owners and employees. OLO recommended: 1) requiring or encouraging biohealth firms to report workforce and vendor data by race, ethnicity, and gender; 2) investing in workforce development opportunities, particularly for BIPOC residents; and 3) investing in local small businesses, especially underrepresented BIPOC small businesses.

The Montgomery County Planning Board reviewed ZTA 22-02 on June 9, 2022. The Planning Board recommended approval of ZTA 22-02 with the amendments proposed by the lead sponsor in a letter and amended draft sent out in advance of the public hearing.

A public hearing was held on June 14, 2022. Three speakers testified in support of ZTA 22-02. The Council received a letter in support of the ZTA, as well as a letter requesting the addition of industrial zones.

The PHED Committee held a worksession on July 11, 2022. The PHED Committee recommended approval of ZTA 22-02 as amended.

Full Council worksession and action was held on July 26, 2022. The Council unanimously voted to amend ZTA 22-02 to add IM zones, with site plan review.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 22-02 will be approved as amended.

ORDINANCE

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

1 **Sec. 1. Division 3.5 is amended as follows:**

2 **Division 3.5. Commercial Uses**

3 * * *

4 **Section 3.5.8. Office and Professional**

5 * * *

6 **E. Biohealth Priority Campus**

7 * * *

8 **3. Use Standards**

9 a. Residential FAR limits on the subject property may be
10 reallocated to commercial FAR if the total FAR does not
11 exceed the maximum total mapped FAR of the property and the
12 building height does not exceed the maximum mapped height,
13 including any increases in each allowed by this Chapter.

14 b. A mechanical penthouse, and the roof structures listed in
15 Section 4.1.7.C.3, may occupy a maximum of 50% of the roof
16 area of any individual building.

17 c. The subject property may utilize FAR averaging under Sections
18 4.5.2.B. and 4.6.2.B.

19 [[d. Facilities serving a Biohealth Priority Campus may be
20 consolidated and located on one or more properties inside the
21 area subject to the Biohealth Priority Campus plan. Such
22 facilities may include utilities, open space, and parking.

23 **4. Parking**

24 a. In a Parking Lot District, an applicant may provide fewer
25 parking spaces than required, after all adjustments are made
26 under Section 6.2.3.I, only if a parking waiver under Section
27 3.5.8.E.4.c is approved.

- 28 b. In a Parking Lot District, an applicant may provide more than
29 the maximum number of parking spaces allowed provided the
30 excess parking spaces are made available to the public and are
31 not reserved, or if a parking waiver under Section 3.5.8.E.4.c is
32 approved.
- 33 c. The deciding body may waive any requirement of Section 6.2.5
34 if the alternative design satisfies Section 6.2.1.]]

35 * * *

36 **Sec. [[2]]1. DIVISION 59-4.5 is amended as follows:**

37 **Division 4.5. Commercial/Residential Zones**

38 * * *

39 **Section 4.5.2. Density and Height Allocation**

40 **A. Density and Height Limits**

- 41 1. Density is calculated as an allowed floor area ratio (FAR).
- 42 2. Each CRN, CRT, and CR zone classification is followed by a number
43 and a sequence of 3 additional symbols: C, R, and H, each followed
44 by another number where:
- 45 a. The number following the classification is the maximum total
46 FAR allowed unless additional FAR is allowed under
47 Section 4.5.2.C or Section 4.5.2.D;
- 48 b. The number following the C is the maximum nonresidential
49 FAR allowed, unless additional FAR is allowed under Section
50 3.5.8.D or Section 4.5.4.B.5;
- 51 c. The number following the R is the maximum residential FAR
52 allowed, unless additional residential FAR is allowed under
53 Section 3.5.8.D, Section 4.5.2.C, or Section 4.5.2.D; and

- 54 d. The number following the H is the maximum building height in
 55 feet allowed unless additional height is allowed under Section
 56 3.5.8.D, Section 4.5.2.C, Section 4.5.2.D, ~~[[or]]~~Section
 57 4.5.2.A.2.e. or Section 4.5.4.B.5.
- 58 e. With Planning Board approval any Optional Method project in
 59 a CR zone that includes the provision of a major public facility
 60 under Section 4.7.3.A may add the height of any floor mostly
 61 used for above grade parking to the maximum height otherwise
 62 allowed, when the major public facility diminishes the ability of
 63 the applicant to provide parking at or below grade.
- 64 3. The following limits apply unless additional total FAR, residential
 65 FAR, or height are allowed under Section 4.5.2.C, Section 4.5.2.D,
 66 ~~[[or]]~~Section 4.5.2.A.2.e, or Section 4.5.4.B.5.:
 67

Zone	Total FAR (max)	C FAR (max)	R FAR (max)	Height (max)
CRN	0.25 to 1.5	0.00 to 1.5	0.00 to 1.5	25' to 65'
CRT	0.25 to 4.0	0.25 to 3.5	0.25 to 3.5	35' to 150'
CR	0.5 to 8.0	0.25 to 7.5	0.25 to 7.5	35' to 300'

- 68 4. Zones are established at density increments of 0.25 FAR and height
 69 increments of 5 feet up to the maximums in Section 4.5.2.A.3.
- 70 ~~[[5. For a Life Sciences or Research and Development Use under Section~~
 71 ~~3.5.8 or a Medical/Scientific Manufacturing and Production Use under~~
 72 ~~Section 3.6.4.D in the CR zone that is within a red policy area or~~
 73 ~~opportunity zone, including contiguous properties separated from the~~
 74 ~~red policy area or opportunity zone only by a public right-of-way; or~~
 75 ~~within ½ mile of a planned or existing Bus Rapid Transit route~~
 76 ~~including the Corridor Cities Transitway:~~

- 77 a. with Planning Board approval, a property with a maximum
- 78 building height of 100 feet or less may exceed the maximum
- 79 building height allowed in the mapped zone by 2.0 times, and a
- 80 property with a maximum building height of 100 to 200 feet
- 81 may exceed the maximum building height allowed in the
- 82 mapped zone by 1.5 times; and
- 83 b. nonresidential FAR may be increased above the number
- 84 following the C on the zoning map if the total FAR does not
- 85 exceed the maximum total mapped FAR of the property,
- 86 including any increases allowed under this Chapter, and the
- 87 building height does not exceed the height allowed under
- 88 Section 4.5.2.A.5.a.
- 89 c. Where the provisions of any Overlay zone are contrary or more
- 90 restrictive, Section 4.5.2.A.5. applies.]]

91 * * *

92 **Section 4.5.4. Optional Method Development**

93 * * *

94 **B. Development Standards**

95 * * *

96 **5. Development of Certain Biohealth Uses**

- 97 a. Additional height is permitted for any application in the
- 98 CR zone where the primary use is Research and
- 99 Development under Section 3.5.8 or Medical/Scientific
- 100 Manufacturing and Production under Section 3.6.4.D, if:
- 101 i. the development site is located within a red policy
- 102 area or opportunity zone, including contiguous
- 103 properties separated from the red policy area or

- 104 opportunity zone only by a public right-of-way; or
105 within ½ mile of a planned or existing Bus Rapid
106 Transit route including the Corridor Cities
107 Transitway;
- 108 ii. the development site fronts on a street classified as
109 an arterial roadway or higher classification;
- 110 iii. the development site does not abut or confront a
111 property in an Agricultural, Rural Residential,
112 Residential Detached, or Residential Townhouse
113 zone that is vacant or improved with an
114 agricultural or residential use; and
- 115 iv. the application achieves public benefit points for
116 Adaptive Buildings under Sec. 4.7.3.D.1.
- 117 b. In order to achieve additional height under Section
118 4.5.4.B.5.a, the following provisions apply:
- 119 i. A development site that includes a property with a
120 mapped height of 100 feet or less may achieve 1.5
121 times the mapped height. A development site that
122 uses averaged height under Section 4.5.4.B.5.b.ii
123 may achieve 1.5 times the resulting averaged
124 height, provided the maximum building height
125 does not exceed 150 feet.
- 126 ii. Building height for a portion of a building or
127 buildings across a development site may be
128 increased above the number following the H on the
129 zoning map so long as the average height of all

130 buildings is no greater than the maximum height
131 allowed by the mapped zone.

132 (A) Average building height is calculated as the
133 sum of each area of each section of roof
134 having a different height multiplied by that
135 height, divided by the total roof area. Height
136 is measured at the midpoint of each roof
137 section along each frontage.

138 (B) If the development site has more than one
139 mapped height, the maximum height is
140 based on the proportion of the tract area
141 within each mapped zone. It is calculated as
142 the sum of the tract square footage within
143 each mapped zone multiplied by the mapped
144 height, divided by the total tract area.

145 c. For properties that satisfy the requirements of Section
146 4.5.4.B.5.a., residential FAR may be reallocated to
147 nonresidential FAR if the total FAR does not exceed the
148 maximum total mapped FAR for the property.

149 * * *

150 **Sec. ~~[[3]]2. DIVISION 59-4.6 is amended as follows:~~**

151 **Division 4.6. Employment Zones**

152 * * *

153 **Section 4.6.2. Density and Height Allocation**

154 **A. Density and Height Limits**

155 1. Density is calculated as an allowed floor area ratio (FAR).

- 156 2. Each GR, NR, LSC, and EOF zone classification is followed by a
 157 number and symbol: H, which is followed by another number where:
 158 a. The number following the classification is the maximum total
 159 FAR allowed unless additional FAR is allowed under Section
 160 4.6.2.C and Section 4.6.2.D; and
 161 b. The number following the H is the maximum building height in
 162 feet allowed unless additional height is allowed under Section
 163 4.6.2.D or Section ~~[[4.6.2.A.5.]]4.6.4.B.5.~~
 164 3. The following limits apply unless additional total FAR, residential
 165 FAR, or height are allowed under ~~[[Section 4.6.2.A.5,]]~~Section
 166 4.6.2.C ~~[[and]]~~or Section 4.6.2.D.
 167

Zone	Total FAR (max)	Height (max)
GR	0.5 to 2.5	25' to 120'
NR	0.25 to 1.5	25' to 50'
LSC	0.5 to 2.5	35' to 200'
EOF	0.5 to 4.0	35' to 200'

- 168 4. Zones are established at density increments of 0.25 FAR and height
 169 increments of 5 feet up to the maximums in Section 4.6.2.A.3.
 170 [[5. For a Life Sciences or Research and Development Use under Section
 171 3.5.8 or a Medical/Scientific Manufacturing and Production Use under
 172 Section 3.6.4.D in the LSC or EOF zone that is within a red policy
 173 area or opportunity zone, including contiguous properties separated
 174 from the red policy area or opportunity zone only by a public right-of-
 175 way; or within ½ mile of a planned or existing Bus Rapid Transit
 176 route including the Corridor Cities Transitway:

- 177 a. with Planning Board approval, a property with a maximum
- 178 building height of 100 feet or less may exceed the maximum
- 179 building height allowed in the mapped zone by 2.0 times, and a
- 180 property with a maximum building height of 100 to 200 feet
- 181 may exceed the maximum building height allowed in the
- 182 mapped zone by 1.5 times; and
- 183 b. nonresidential FAR may be increased above the number
- 184 following the C on the zoning map if the total FAR does not
- 185 exceed the maximum total mapped FAR of the property,
- 186 including any increases allowed under this Chapter, and the
- 187 building height does not exceed the height allowed under
- 188 Section 4.6.2.A.5.a.
- 189 c. Where the provisions of any Overlay zone are contrary or more
- 190 restrictive, Section 4.6.2.A.5. applies.]]

191 * * *

192 **Section 4.6.4. Optional Method Development**

193 * * *

194 **B. Development Standards**

195 * * *

196 **5. Development of Certain Biohealth Uses**

- 197 a. Additional height is permitted for any application in the
- 198 LSC or EOF zone where the primary use is Research and
- 199 Development under Section 3.5.8 or Medical/Scientific
- 200 Manufacturing and Production under Section 3.6.4.D, if:
- 201 i. the development site is located within a red policy
- 202 area or opportunity zone, including contiguous
- 203 properties separated from the red policy area or

- 204 opportunity zone only by a public right-of-way; or
205 within ½ mile of a planned or existing Bus Rapid
206 Transit route including the Corridor Cities
207 Transitway;
- 208 ii. the development site fronts on a street classified as
209 an arterial roadway or higher classification;
- 210 iii. the development site does not abut or confront a
211 property in an Agricultural, Rural Residential,
212 Residential Detached, or Residential Townhouse
213 zone that is vacant or improved with an
214 agricultural or residential use; and
- 215 iv. the application achieves public benefit points for
216 Adaptive Buildings under Sec. 4.7.3.D.1.
- 217 b. In order to achieve additional height under Section
218 4.6.4.B.5.a, the following provisions apply:
- 219 i. A development site that includes a property with a
220 mapped height of 100 feet or less may achieve 1.5
221 times the mapped height. A development site that
222 uses averaged height under Section 4.6.4.B.5.b.ii
223 may achieve 1.5 times the resulting averaged
224 height, provided the maximum building height
225 does not exceed 150 feet.
- 226 ii. Building height for a portion of a building or
227 buildings across a development site may be
228 increased above the number following the H on the
229 zoning map so long as the average height of all

230 buildings is no greater than the maximum height
231 allowed by the mapped zone.

232 (A) Average building height is calculated as the
233 sum of each area of each section of roof
234 having a different height multiplied by that
235 height, divided by the total roof area. Height
236 is measured at the midpoint of each roof
237 section along each frontage.

238 (B) If the development site has more than one
239 mapped height, the maximum height is
240 based on the proportion of the tract area
241 within each mapped zone. It is calculated as
242 the sum of the tract square footage within
243 each mapped zone multiplied by the mapped
244 height, divided by the total tract area.

245 * * *

246 **Sec. 3. DIVISION 59-4.8 is amended as follows:**

247 **Division 4.8. Industrial Zones**

248 * * *

249 **Section 4.8.3. Standard Method Development**

250 * * *

251 **A. IL and IM Zones, Standard Method Development Standards**

252 * * *

253 **B. Development of Certain Biohealth Uses**

254 1. Additional height is permitted for any application in the IM zone
255 where the primary use is Research and Development under Section

256 3.5.8 or Medical/Scientific Manufacturing and Production under
257 Section 3.6.4.D, if:

- 258 a. the development site is located within a red policy area or
259 opportunity zone, including contiguous properties separated
260 from the red policy area or opportunity zone only by a public
261 right-of-way; or within ½ mile of a planned or existing Bus
262 Rapid Transit route including the Corridor Cities Transitway;
- 263 b. the development site fronts on a street classified as an arterial
264 roadway or higher classification; and
- 265 c. the development site does not abut or confront a property in an
266 Agricultural, Rural Residential, Residential Detached, or
267 Residential Townhouse zone that is vacant or improved with an
268 agricultural or residential use.

269 2. In order to achieve additional height under Section 4.8.3.B.1, the
270 following provisions apply:

- 271 a. Site plan approval is required under Section 7.3.4.
- 272 b. A development site that includes a property with a mapped
273 height of 100 feet or less may achieve 1.5 times the mapped
274 height. A development site that uses averaged height under
275 Section 4.8.3.B.2.c. may achieve 1.5 times the resulting
276 averaged height, provided the maximum building height does
277 not exceed 150 feet.
- 278 c. Building height for a portion of a building or buildings across a
279 development site may be increased above the number following
280 the H on the zoning map so long as the average height of all
281 buildings is no greater than the maximum height allowed by the
282 mapped zone.

- 283 i. Average building height is calculated as the sum of each
284 area of each section of roof having a different height
285 multiplied by that height, divided by the total roof area.
286 Height is measured at the midpoint of each roof section
287 along each frontage.
- 288 ii. If the development site has more than one mapped
289 height, the maximum height is based on the proportion of
290 the tract area within each mapped zone. It is calculated as
291 the sum of the tract square footage within each mapped
292 zone multiplied by the mapped height, divided by the
293 total tract area.

294 **[B]C. IH Zone, Standard Method Development Standards**

295 * * *

296 **Sec. 4. DIVISION 59-6.2 is amended as follows:**

297 **Division 6.2. Parking, Queuing, and Loading**

298 * * *

299 **Section 6.2.4. Parking Requirements**

300 * * *

301 **B. Vehicle Parking Spaces**

302

USE or USE GROUP	Metric	Agricultural, Rural Residential, Residential, and Industrial Zones	Commercial/Residential and Employment Zones		
			Within a Parking Lot District or Reduced Parking Area	Outside a Parking Lot District or Reduced Parking Area	
		Baseline Minimum	Baseline Minimum	Baseline Maximum	Baseline Minimum
* * *					
Office and Professional					
Office	1,000 SF of GFA	2.80	2.00	3.00	2.25
Life Sciences Research and Development	1,000 SF of GFA	1.50	1.00	3.00	1.50
[[Biohealth Priority Campus	<u>1,000 SF of GFA</u>	--	<u>1.00</u>	<u>3.00</u>	<u>1.50</u>]]

303

* * *

304 **Sec. ~~[[5]]4.~~ 4. **Effective date.** This ordinance becomes effective 20 days after**

305 the date of Council adoption.

This is an accurate account of the meeting:



Judy Rupp
Clerk of the Council