Clerk's Note: Replaced "Zoning Text Amendment No.: 22-02" with "Ordinance No.: 19-31" in the header of pages 4-18.

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 <u>allocation</u> 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>	"Optional Method Development"
Division 4.6.	"Employment Zones"
Section 4.6.2.	"Density and Height Allocation"
<u>Section 4.6.4.</u>	"Optional Method Development"

Division 4.8 "Industrial Zones"

Section 4.8.3. "Standard Method Development"

[[Division 6.2. "Parking, Queuing, and Loading"

Section 6.2.4. "Parking Requirements"]]

**EXPLANATION:** Boldface indicates a Heading or a defined term.

<u>Underlining</u> 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.

<u>Double underlining</u> 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 Hucker, 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. Div	rision 3.5 is amended as follows:
2	Div	visio	on 3.	5. Cor	mmercial Uses
3	*	*	*		
4	Sec	ction	n 3.5	5.8. Of	fice and Professional
5	*	*	*		
6	E.	]	Bioh	ealth	Priority Campus
7	*	*	*		
8		3	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				[[ <u>d.</u>	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	<u>4.</u>	<u>Parl</u>	<u>king</u>
24				<u>a.</u>	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				<u>b.</u>	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				<u>c.</u>	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]] <u>1</u> .	DIVISION 59-4.5 is amended as follows:
37	Div	visio	on 4	.5. Con	nmercial/Residential Zones
38	*	*	*		
39	Sec	ctio	n 4.	5.2. <b>De</b> i	nsity and Height Allocation
40	A.		Den	sity an	d Height Limits
41			1.	Dens	ity 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 an	nother 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 <u>or Section 4.5.4.B.5</u> ;
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

d. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 3.5.8.D, Section 4.5.2.C, Section 4.5.2.D, [[or ]]Section 4.5.2.A.2.e. or Section 4.5.4.B.5.

- e. With Planning Board approval any Optional Method project in a CR zone that includes the provision of a major public facility under Section\_4.7.3.A may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the applicant to provide parking at or below grade.
- 3. The following limits apply unless additional total FAR, residential FAR, or height are allowed under Section 4.5.2.C, Section 4.5.2.D, [[or ]]Section 4.5.2.A.2.e, or Section 4.5.4.B.5.:

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'

- 4. Zones are established at density increments of 0.25 FAR and height increments of 5 feet up to the maximums in Section 4.5.2.A.3.
- [[5. For a Life Sciences or Research and Development Use under Section 3.5.8 or a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D in the CR zone that is 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:

77				<u>a.</u>	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				<u>b.</u>	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				<u>c.</u>	Where the provisions of any Overlay zone are contrary or more
90					restrictive, Section 4.5.2.A.5. applies.]]
91	*	*	*		
92	Se	ction	1 4.5	5.4. O <sub>l</sub>	ptional Method Development
93	*	*	*		
94		]	3.	Dev	elopment Standards
95	*	*	*		
96				<u>5.</u>	<b>Development of Certain Biohealth Uses</b>
97					<u>a.</u> <u>Additional height is permitted for any application in the</u>
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					<u>i.</u> <u>the development site is located within a red policy</u>
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			<u>Transitway;</u>
108		<u>ii.</u>	the development site fronts on a street classified as
109			an arterial roadway or higher classification;
110		<u>iii.</u>	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		<u>iv.</u>	the application achieves public benefit points for
116			Adaptive Buildings under Sec. 4.7.3.D.1.
117	<u>b.</u>	In or	der to achieve additional height under Section
118		<u>4.5.4</u>	.B.5.a, the following provisions apply:
119		<u>i.</u>	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		<u>ii.</u>	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. Heigh
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 mappe
144	height, divided by the total tract area.
145	<u>c.</u> <u>For properties that satisfy the requirements of Section</u>
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).

2. Each GR, NR, LSC, and EOF zone classification is followed by a number and symbol: H, which is followed by another number where:

- a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.6.2.C and Section 4.6.2.D; and
- b. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 4.6.2.D or Section [[4.6.2.A.5.]]4.6.4.B.5.
- 3. The following limits apply unless additional total FAR, residential FAR, or height are allowed under [[Section 4.6.2.A.5, ]]Section 4.6.2.C [[and]]or Section 4.6.2.D.

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'

- 4. Zones are established at density increments of 0.25 FAR and height increments of 5 feet up to the maximums in Section 4.6.2.A.3.
  - [[5. For a Life Sciences or Research and Development Use under Section 3.5.8 or a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D in the LSC or EOF zone that is 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-ofway; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway:

177				<u>a.</u>	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				<u>b.</u>	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				<u>c.</u>	Where the provisions of any Overlay zone are contrary or more
190					restrictive, Section 4.6.2.A.5. applies.]]
191	*	*	*		
192	Se	ctio	ı 4.6	5.4. Op	otional Method Development
193	*	*	*		
194		]	В.	Deve	elopment Standards
195	*	*	*		
196				<u>5.</u>	<b>Development of Certain Biohealth Uses</b>
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					<u>i.</u> <u>the development site is located within a red policy</u>
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		<u>ii.</u>	the development site fronts on a street classified as
209			an arterial roadway or higher classification;
210		<u>iii.</u>	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		<u>iv.</u>	the application achieves public benefit points for
216			Adaptive Buildings under Sec. 4.7.3.D.1.
217	<u>b.</u>	In ord	ler to achieve additional height under Section
<ul><li>217</li><li>218</li></ul>	<u>b.</u>		ler to achieve additional height under Section  B.5.a, the following provisions apply:
	<u>b.</u>		
218	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:
<ul><li>218</li><li>219</li></ul>	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a
<ul><li>218</li><li>219</li><li>220</li></ul>	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5
<ul><li>218</li><li>219</li><li>220</li><li>221</li></ul>	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that
<ul><li>218</li><li>219</li><li>220</li><li>221</li><li>222</li></ul>	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.6.4.B.5.b.ii
<ul><li>218</li><li>219</li><li>220</li><li>221</li><li>222</li><li>223</li></ul>	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.6.4.B.5.b.ii may achieve 1.5 times the resulting averaged
218 219 220 221 222 223 224	<u>b.</u>	4.6.4.	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.6.4.B.5.b.ii may achieve 1.5 times the resulting averaged height, provided the maximum building height
218 219 220 221 222 223 224 225	<u>b.</u>	4.6.4. <u>i.</u>	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.6.4.B.5.b.ii may achieve 1.5 times the resulting averaged height, provided the maximum building height does not exceed 150 feet.
218 219 220 221 222 223 224 225 226	<u>b.</u>	4.6.4. <u>i.</u>	B.5.a, the following provisions apply:  A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.6.4.B.5.b.ii may achieve 1.5 times the resulting averaged height, provided the maximum building height does not exceed 150 feet.  Building height for a portion of a building or

230	buildings is no greater than the maximum heigh	<u>t</u>
231	allowed by the mapped zone.	
232	(A) Average building height is calculated as t	<u>he</u>
233	sum of each area of each section of roof	
234	having a different height multiplied by the	<u>at</u>
235	height, divided by the total roof area. Height	<u>ght</u>
236	is measured at the midpoint of each roof	
237	section along each frontage.	
238	(B) If the development site has more than one	<u>*</u>
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	Ē:
243	each mapped zone multiplied by the mapp	<u>ped</u>
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>B.</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	on 3.6.4.D, if:
258		<u>a.</u>	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		<u>b.</u>	the development site fronts on a street classified as an arterial
264			roadway or higher classification; and
265		<u>c.</u>	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	<u>2.</u>	In ord	ler to achieve additional height under Section 4.8.3.B.1, the
270		follow	ving provisions apply:
271		<u>a.</u>	Site plan approval is required under Section 7.3.4.
272		<u>b.</u>	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		<u>c.</u>	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	<u>i.</u>	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	<u>ii.</u>	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] <u>C</u> . IH Zone, Standa	ard 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				

USE or USE GROUP	Metric	Agricultural,	Commercial/Residential and I		Employment
		Rural	Zones		
		Residential,	Within a Parking Lot District		Outside a
		Residential,	or Reduced Parking Area		Parking Lot
		and Industrial			District or
		Zones			Reduced
					Parking Area
				<del>,</del>	
		Baseline	Baseline	Baseline	Baseline
		Minimum	Minimum	Maximum	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	1,000 SF of GFA	==	1.00	3.00	1.50]]

<sup>303 \* \* \*</sup> 

Ordinance No.: 19-31

Sec. [[5]]4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

Ordinance No.: 19-31

This is an accurate account of the meeting:

Judy **K**upp

Clerk of the Council