

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 Alborno, 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 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:

Sec. 1. Division 3.5 is amended as follows:

Division 3.5. Commercial Uses

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Section 3.5.8. Office and Professional

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E. Biohealth Priority Campus

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3. Use Standards

- a. Residential FAR limits on the subject property may be reallocated to commercial FAR if the total FAR does not exceed the maximum total mapped FAR of the property and the building height does not exceed the maximum mapped height, including any increases in each allowed by this Chapter.
- b. A mechanical penthouse, and the roof structures listed in Section 4.1.7.C.3, may occupy a maximum of 50% of the roof area of any individual building.
- c. The subject property may utilize FAR averaging under Sections 4.5.2.B. and 4.6.2.B.

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

4. Parking

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

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

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

Division 4.5. Commercial/Residential Zones

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Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

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

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

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Section 4.5.4. Optional Method Development

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B. Development Standards

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5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the CR zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
- i. the development site is 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;

ii. the development site fronts on a street classified as
an arterial roadway or higher classification;

iii. the development site does not 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; and

iv. the application achieves public benefit points for
Adaptive Buildings under Sec. 4.7.3.D.1.

b. In order to achieve additional height under Section
4.5.4.B.5.a, the following provisions apply:

i. 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 4.5.4.B.5.b.ii
may achieve 1.5 times the resulting averaged
height, provided the maximum building height
does not exceed 150 feet.

ii. Building height for a portion of a building or
buildings across a development site may be
increased above the number following the H on the
zoning map so long as the average height of all

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

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

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

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

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

Division 4.6. Employment Zones

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Section 4.6.2. Density and Height Allocation

A. Density and Height Limits

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:
- 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
 - 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-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway:

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

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Section 4.6.4. Optional Method Development

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B. Development Standards

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5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the LSC or EOF zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
- i. the development site is 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;

ii. the development site fronts on a street classified as
an arterial roadway or higher classification;

iii. the development site does not 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; and

iv. the application achieves public benefit points for
Adaptive Buildings under Sec. 4.7.3.D.1.

b. In order to achieve additional height under Section
4.6.4.B.5.a, the following provisions apply:

i. 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.

ii. Building height for a portion of a building or
buildings across a development site may be
increased above the number following the H on the
zoning map so long as the average height of all

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

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

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

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

Division 4.8. Industrial Zones

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Section 4.8.3. Standard Method Development

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A. IL and IM Zones, Standard Method Development Standards

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B. Development of Certain Biohealth Uses

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

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

- a. the development site is 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;
- b. the development site fronts on a street classified as an arterial
roadway or higher classification; and
- c. the development site does not 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.

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

- a. Site plan approval is required under Section 7.3.4.
- b. 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 4.8.3.B.2.c. may achieve 1.5 times the resulting
averaged height, provided the maximum building height does
not exceed 150 feet.
- c. Building height for a portion of a building or buildings across a
development site may be increased above the number following
the H on the zoning map so long as the average height of all
buildings is no greater than the maximum height allowed by the
mapped zone.

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

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

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

Division 6.2. Parking, Queuing, and Loading

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Section 6.2.4. Parking Requirements

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B. Vehicle Parking Spaces

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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
[[<u>Biohealth Priority Campus</u>	<u>1,000 SF of GFA</u>	--	<u>1.00</u>	<u>3.00</u>	<u>1.50</u>]]

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304 **Sec. ~~[[5]]~~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