



**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Gene Smith, Legislative Analyst  
**Purpose:** Final action – vote expected  
**Keywords:** Economic Development, Montgomery College

AGENDA ITEM #4I  
May 10, 2022  
**Action**

## SUBJECT

Resolution to extend time until September 30, 2022, for the Council's consideration of Executive Regulation 2-22, Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

## DESCRIPTION/ISSUE

The Executive transmitted Executive Regulation 2-22, *Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone*, on March 28, 2022. This regulation is Method (2) per §2A-15 of the County Code. A Method (2) regulation automatically takes effect if the Council does not approve or disapprove it within 60 days of receipt. The Council may also extend time for consideration of a Method (2) regulation. The Council has elected to extend the time for its review of the subject regulation.

## SUMMARY OF KEY DISCUSSION POINTS

- The Planning, Housing, and Economic Development Committee is tentatively scheduled to review the subject regulation in June 2022.

### This report contains:

Executive memorandum  
Proposed resolution

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© #13-14

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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

MEMORANDUM

March 28, 2022

TO: Gabe Albornoz, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Executive Regulation 2-22, Montgomery College Germantown Campus  
Regional Institution Strategic Enterprise Zone

The purpose of this memorandum is to submit Executive Regulation 2-22 to the County Council for review and approval. This Regulation establishes the procedures to administer the Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone (MC GC RISE Zone) pursuant to the adoption of Council Resolution 18-1176. It establishes prequalification standards and eligibility requirements for the MC GC RISE Zone.

These policies and procedures establish the qualifying criteria for determination and certification of eligibility of businesses and/or commercial property located in the boundaries of the MCGC RISE Zone for property or employment tax credits made available under the Maryland RISE Zone Program and set forth the process for certification by the County. The lapse between the adoption of Council Resolution 18-1176 and the completion of this Executive Regulation occurred due to the loss of staff responsible for RISE Zone implementation both in the County government and Montgomery College.

Executive Regulation 2-22 was processed under Method 2 of Section 2A-15 of the Montgomery County Code. It was advertised in the January issue of the Montgomery County Register with a comment deadline of January 31, 2022. No comments were received.

If you have any questions concerning this Regulation or require additional information, please contact Peter McGinnity, Department of Finance at 240-777-2011.

ME/pmg



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone	Number 2-22
Originating Department Department of Finance	Effective Date

Montgomery County Regulation on:

## MONTGOMERY COLLEGE GERMANTOWN CAMPUS REGIONAL INSTITUTION STRATEGIC ENTERPRISE ZONE

Issued by: Department of Finance  
Issued by: County Executive  
Regulation No. 2-22

COMCOR No. 52.102.01

Authority: Economic Development Article, § 5-1404(e)  
County Council Resolution No. 18-1176;  
Montgomery County Code Section 2A-14  
Council Review: Method (2) under Code Section 2A-15  
Register Vol. 39, Issue 1

Comment Deadline: January 31, 2022  
Effective Date:  
Sunset Date: None

**SUMMARY:** This regulation establishes policies and procedures for the administration of the Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone (“MCGC RISE Zone”).

**ADDRESS:** Written comments on this regulation should be sent to:  
Peter McGinnity, Manager  
Economic Development Programs  
Department of Finance  
101 Monroe Street, 15<sup>th</sup> Floor  
Rockville, MD 20850

**STAFF CONTACT:** For further information or to obtain a copy of this regulation, please contact David Crow at (240) 777-2011



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## BACKGROUND:

Maryland Annotated Code, Economic Development Article, Sections 5-1401 et seq., authorizes the establishment of Regional Institution Strategic Enterprise Zones under certain circumstances. On September 28, 2018 the Secretary of Commerce of the State of Maryland approved Montgomery College's application to designate certain portions of the 2009 Germantown Employment Area Sector Plan as the MCGC RISE Zone. By Council Resolution No. 18-1176, adopted July 10, 2018, the County Council consented to Montgomery College's application to create the MCGC RISE Zone for certain targeted industries and further required the County Executive to establish by Executive Regulation certain prequalification standards and eligibility requirements for applicant property within the MCGC RISE Zone. These policies and procedures establish the qualifying criteria for the determination and certification of eligibility of businesses and/or commercial property located in the boundaries of the MCGC RISE Zone for property or employment tax credits made available under the Maryland RISE Zone Program and sets forth the process for certification by the County. Determination of eligibility for tax credits under this program shall be done in a fair and equitable manner, open to public scrutiny, in accordance with the policies and procedures herein.

## **MONTGOMERY COUNTY CODE CHAPTER 52, ARTICLE XV. MONTGOMERY COLLEGE GERMANTOWN CAMPUS REGIONAL INSTITUTION STRATEGIC ENTERPRISE ZONE – REGULATIONS**

### **COMCOR 52.102.01 Montgomery College Germantown Campus Regional Institution**

#### **52.102.01.01 General Provisions**

- A. Purpose. The Montgomery College Germantown Campus (MCGC) RISE Zone is established for the following purposes:
1. assist the County in achieving the vision for Germantown as highlighted in the 2009 Germantown Employment Area Sector Plan. The Germantown Employment Area Sector Plan identified the following as key components of the Plan: connections to cultural, historic, and civic facilities such as Montgomery College, a vibrant economic core, and employment centers;



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2. encourage the development of commercial space for targeted industries: biohealth, information technology and cyber security, corporate and regional headquarters, and entrepreneurs and innovators;
3. facilitate employment opportunities for Montgomery College students in targeted industries;
4. encourage the creation of wet lab space, which is in high demand but difficult to create through conventional development; and
5. strengthen Germantown as the business center for the UpCounty Region.

B. Authority. In accordance with the authority conferred by the County Council in Resolution No. 18-1176, adopted July 10, 2018, and Section 2A-14 of the Montgomery County Code, the County Executive hereby promulgates this regulation to administer and implement the MCGC RISE Zone Program ( the "Zone") in Montgomery County, Maryland.

C. Applicability. These policies and procedures apply to all property owners and employers located within the boundaries of the Zone who meet the eligibility requirements and qualification standards established by this Executive Regulation during the period when the Zone is in effect.

## **52.102.01.02 Definitions**

For purposes of this regulation, the following words and phrases have the following meanings unless the context clearly indicated otherwise:

- A. Administrator means the Administrator of the Local RISE Zone is the Director, Montgomery County Department of Finance, or the Director's designee.
- B. Certificate of Occupancy means the permit to occupy a building in Montgomery County issued by the Department of Permitting Services.
- C. Economically Disadvantaged Person or People means a person or people certified as such by the Maryland Job Service, Department of Labor, Licensing and Regulation.
- D. Employment Tax Credit means the credit on income tax that may be allowed for new Maryland employees hired in the Zone.



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- E.     RISE Zone Program means the administration, policies and procedures established pursuant to Title 5, Subtitle 14, of the Economic Development Article of the Annotated Code of Maryland, Title 24, Subtitle 5, Chapter 21 of the Code of Maryland Regulations, the application filed July 19, 2018 by Montgomery College to the State of Maryland, and these Executive Regulations for determination and certification of eligible property owners and employers to receive applicable tax credits in accordance with the requirements for eligibility set forth herein for the MCGC RISE Zone.
- F.     Property Tax Credit means the credit that may be allowed on the increased assessment subsequent to capital investment in property in the Zone.
- G.     MCGC RISE Zone means that portion of Germantown, Maryland, shown in the attached Figure 1 of the Montgomery County Zone Application, dated October 15, 1998, and designated as such by the State of Maryland on December 15, 1998. The Zone boundary is also shown on the attached map.
- H.     Germantown Employment Area Sector Plan, 2009 means the Comprehensive Amendment to the Approved and Adopted Germantown Master Plan, 1989, as adopted, approved by the Montgomery County Council on September 22, 2009 and adopted by the Maryland-National Capital Park and Planning Commission on October 15, 2009.
- I.     North American Industry Classification System (N.A.I.C.S.) means the system generally used to classify commercial establishments by type of business in which they are engaged.

## **52.102.01.03 Process and Administration**

- A.     Responsibilities of the Administrator.
1.     Determining the eligibility of the businesses and/or property owners for the tax credits under the Enterprise Zone Program.
  2.     Notifying the State Department of Assessments and Taxation, the Maryland Department of Commerce, and the Montgomery County Department of Finance that the applicant is eligible for real property tax credits in accordance with the Zone Program.



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3. Providing certification to the applicant of eligibility for income tax credits in accordance with the MCGC RISE Zone Program within 60 days of the receipt of application. It is the responsibility of the applicant to file this certification of eligibility when filing the appropriate income tax form with the State.
4. Submitting, as directed, an Annual Report to the Maryland Department of Commerce each calendar year following adoption of these Executive Regulations, so long as the MCGC RISE Zone Program is in effect and so directed. The Annual Report will be sent to the Montgomery County Council.
5. Acting as the principal point of contact between the public and the State of Maryland with respect to questions concerning the MCGC RISE Zone Program.
6. Developing applications for tax credits in the Zone.
7. Preparing a short fact sheet describing the MCGC RISE Zone and its benefits to business.

B. Application and Reporting Requirements.

1. Property owners and/or businesses applicants seeking certain tax credits available through the RISE Zone must complete an application for certification of eligibility to receive those tax credits. Recipients of RISE Zone tax credits must report annually on property tax credits and employment tax credits received, using forms provided by the Administrator. The application(s) must provide evidence that all State and local qualification standards for certification have been met. At a minimum, the application(s) must contain the following information:
  - a. name and address of the business/property owner, type of business entity (corporation, partnership, etc.), Federal Tax Identification Number and North American Industry Classification (N.A.I.C.S.) code;
  - b. for an employment tax credit, the previous address of the business, and the number of employees working at that previous address that have relocated into the RISE if moving into the zone from another location;
  - c. for an employment tax credit, the total employment and verification of increases in employment wages paid for new jobs created in the Zone. The



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applicant may be asked to provide payroll documentation and employee time sheets for the period for which the tax credit is being applied or any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations; and

- d. for the property tax credit, a description of the improvement(s) and the date of completion of the improvement(s), a certification of the costs of the new construction or renovations and the party responsible for payment thereof, a copy of certificate of occupancy if the area being improved is presently occupied, and any other information the Administrator may deem necessary to determine eligibility or compliance with these regulations.
2. Property owners seeking property tax credit on the next applicable July 1 real property tax bill must apply by December 10 of the preceding year in order for the Administrator to certify the property's eligibility by December 31 of that year. A property owner may file an application for pre-certification of eligibility for property tax credit on a form provided by the Administrator prior to making the minimum qualifying capital investment in order to determine in advance whether such investment will be eligible. In this case, the Administrator will send a notice of pre-certification to the applicant. In no case will certification be granted until the minimum qualifying capital investment is completed.
3. Property owners receiving a property tax credit must report annually, on a form provided by the Administrator, of the dollar value of the tax credit, and provide notice of same to any tenant or other third party responsible for the direct payment of or reimbursement to the property owner for payment of such tax within 30 days of payment of property taxes for the tax year in which credit is applied.
4. A business seeking an employment tax credit must apply for certification at least 30 days before the income taxes for which a credit is being applied are due, on a form provided by the Administrator, in order for the Administrator to certify the business is eligible for the tax credit. A copy of the certificate(s) of occupancy for the premises must accompany this form. Businesses that receive an employment tax credit must provide notice of the tax credit received, the number of employees, and total wages paid for which the credit is being claimed, to the Administrator, on a form provided by the Administrator, by December 10 of the tax year for which the credit is received.





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5. Failure to submit information required in section 51.102.01.03 may result in a notification of incomplete application insufficient for determining eligibility. Failure to comply with the local and State RISE Zone regulations may result in decertification of eligibility for tax credit.

## **52.102.01.04 General Conditions.**

- A. Property owners and businesses currently located within the boundaries of the Zone or new businesses that locate there must meet the qualification standards set forth in these Executive Regulations in order to be certified by the Administrator as eligible to receive tax credits under the RISE Zone Program. The following general conditions must be met:
1. the business activity conducted on the property must constitute a legal use of the property;
  2. the property must be current with respect to payment of real property taxes; and
  3. the business must be current with respect to payment of income and personal property taxes.
- B. Any business entity located in the Zone before September 28, 2018 may not benefit from the tax credits and other incentives of the Enterprise Zone Program except with respect to any capital investment or expansion of its labor force occurring after September 28, 2018. Any new construction assessed in the tax year immediately preceding the tax year for the first credit is excluded from the tax assessment.
- C. Location in the Zone or certification of eligibility for tax credit does not relieve property owners or businesses from building codes, zoning requirements and other regulations applicable to the property or business.
- D. A property tax credit will only be applied against the amount of increase in a property tax assessment that results from a minimum qualifying capital investment.



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## 52.102.01.05 Eligibility Requirements and Qualification Standards.

### A. State Standards for Employment Tax Credit Qualification.

1. The new employee(s) for businesses seeking employment tax credits must:
  - a. have been hired after the business was located in the Zone and after September 28, 2018. If a business relocates from another location in Maryland into the Zone, its base employment remains the same as it was at the previous site;
  - b. have worked in the business for at least 35 hours each week for six months before or during the taxable year for which the credit is taken;
  - c. spend at least 50% of all work hours in the Zone or in an activity related to the Zone;
  - d. have been hired to fill new positions. That is, the firm's number of full-time employees must increase by the number of credits taken; and
  - e. earn at least 150% of the federal minimum wage.
2. In order to claim a tax credit for hiring economically disadvantaged individuals to fill newly created positions, the business must obtain a certification of eligibility for each economically disadvantaged individual provided by the Maryland Job Service, Department of Labor, certifying that the individual was both unemployed for 30 consecutive days and qualified to participate in training activities for the economically disadvantaged under Title II, Part B of the federal Workforce Investment Act or its successor or, in the absence of a federal applicable act, met the criteria for an economically disadvantaged individual set by the Secretary of Labor.
3. The economically disadvantaged employee must remain at the business for three years. However, if the disadvantaged employee leaves the business and is replaced by another employee who is also qualified as disadvantaged, the business may take the remainder of the credit as if the original employee had remained.



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B. Additional Local Standards for Employment Tax Credit Qualification.

1. When claiming tax credit(s) for hiring employees or relocating into the Zone from outside the State, the business must show a net increase of at least 35 work hours per week for each tax credit sought. The business may be required to document this employment on time sheets and payroll documents.
2. The business must show an increase in employees of five percent (5%) to a minimum of one (1) new employee.

C. State Standards for Property Tax Credit Qualification.

1. Credits will apply to increased property tax based on an increase in the assessed value of the property. Benefits will be triggered by increased assessment subsequent to a minimum qualifying capital investment in property in the Zone.
2. The tax credit is granted on whole taxable years only. A property owner must pay any partial-year levy tax bills if the property improvement is assessed as complete before July 1 of the first year of eligibility. The property owner will then receive the tax credit for five (5) full years. Tax credits will be calculated in accordance with Md. Code Ann., Tax Prop., Section 9-103.

D. Additional Local Standards for Property Tax Credit Qualification.

1. Property owners must make a minimum qualifying capital investment in the property through sources other than government grants. A minimum qualifying capital investment may include improvements made with funds obtained through government loan programs.
2. The minimum qualifying capital investment is one hundred dollars (\$100) per square foot of building floor area improved, and at least 20 percent (20%) of the total building floor area must be improved.
3. The minimum qualifying capital investment may include off-site investment in state-of-the-art technology, such as installation of new fiber optic wiring to the building, to meet modern standards, particularly those of technology-oriented companies.



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4. The minimum qualifying capital investment may include off-site improvements, such as streetscape improvements, and on-site improvements such as new landscaping in parking lots to implement specific objectives of the Germantown Employment Area Sector Plan, 2009. These improvements must be part of a building construction or building improvement project.
5. Construction of new parking facilities or improvements to existing parking facilities are not eligible for tax credit, except where such parking facility is an integral part of the new building construction or improvement of an existing building.

## **52.102.01.06 Severability**

If a court holds that a portion of this regulation is invalid, the other portions remain in effect.

## **52.102.01.07 Retroactive Application**

This regulation takes effect upon approval by the County Council and applies retroactively to the MCGC RISE Zone as of July 10, 2018.

  
\_\_\_\_\_  
Marc Elrich,  
County Executive

Date: 3/28/2022

Approved as to Form and Legality

  
\_\_\_\_\_  
Office of the County Attorney

Date: 3/25/2022



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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**Subject**

Montgomery College Germantown Campus Regional Institution  
Strategic Enterprise Zone

**Number**

2-22

**Originating Department**

Department of Finance

**Effective Date**

## FIGURE 1

### Montgomery College RISE Zone



Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Resolution to extend time for Council action on Executive Regulation 2-22, Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone

**Background**

1. The Council received Executive Regulation 2-22, *Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone*, on March 28, 2022.
2. The regulation was submitted as a Method (2) regulation per §2A-15 of the County Code and establishes the qualifying criteria for determination and certification of eligible businesses and/or commercial property located in the boundaries of the Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone.
3. The Council must review the Executive regulation under Method (2) of §2A-15 of the County Code.
4. The Executive regulation under Method (2) automatically takes effect if the Council does not approve or disapprove an Executive regulation under Method (2) within 60 calendar days after the Council receives the regulation.
5. Section 2A-15 of the Count Code allows the Council to extend the deadline for action on an Executive regulation under Method (2).

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

The time for consideration of Executive Regulation 2-22, *Montgomery College Germantown Campus Regional Institution Strategic Enterprise Zone*, is extended until September 30, 2022.

This is a correct copy of Council action.

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Judy Rupp  
Clerk of the Council