



Committee: PH
Committee Review: At a future date
Staff: Livhu Ndou, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #VotingRequirements #TechnicalCorrections
#Omnibus

AGENDA ITEM #3A
December 13, 2022
Introduction

SUBJECT

Zoning Text Amendment (ZTA) 22-11, Technical Corrections

Lead Sponsor: Councilmember Friedson

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

ZTA 22-11 will change the voting requirements for map amendments and zoning text amendments and make other technical corrections to the Zoning Ordinance.

SUMMARY OF KEY DISCUSSION POINTS

- On December 5, 2022, the number of Councilmembers increased from 9 to 11 Councilmembers. ZTA 22-11 will increase the number of affirmative votes required for map amendments and zoning text amendments consistent with State law.
- ZTA 22-11 will also make several technical corrections, including removing incorrect references, alphabetizing a section of the use table, and fixing grammatical errors.
- A public hearing is tentatively scheduled for January 17, 2023.

This report contains:

ZTA 22-11
PG/MC 100–22

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Zoning Text Amendment No.: 22-11
Concerning: Technical Corrections
Draft No. & Date: 1 – 11/24/2022
Introduced: December 13, 2022
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**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

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- correct technical, typographical, grammatical, reference, and codification errors in, and make stylistic, clarifying, and conforming amendments to, various provisions of the zoning ordinance.

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

Division 3.1.	“Use Table”
Section 3.1.4.	“Temporary Uses”
Section 3.1.6.	“Use Table”
Division 3.3.	“Residential Uses”
Section 3.3.3.	“Accessory Residential Uses”
Division 3.7.	“Miscellaneous Uses”
Section 3.7.1.	“Noncommercial Kennel”
Division 4.2.	“Agricultural Zone”
Section 4.2.1.	“Agricultural Reserve Zone (AR)”
Division 7.2.	“District Council Approvals”
Section 7.2.1.	“Local Map Amendment”
Section 7.2.2.	“Corrective Map Amendment”
Section 7.2.3.	“Sectional and District Map Amendment”
Section 7.2.4.	“Zoning Text Amendment”

Division 7.3. “Regulatory Approvals”
Section 7.3.6. “Biohealth Priority Campus Plan”

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.*

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 59-3.1 is amended as follows:**

2 **Division 3.1. Use Table**

3 * * *

4 **Section 3.1.4. Temporary Uses**

5 **A. In General**

6 Temporary uses

- 7 1. are temporary in nature;
- 8 2. are established for a fixed period of time with the intent to discontinue
9 the use when that period of time is over;
- 10 3. do not involve the construction or alteration of any permanent
11 structure; and
- 12 4. require a temporary use permit under [Section 7.4.2]Chapter 8, with
13 the following exceptions.

14 * * *

15 **Section 3.1.6. Use Table**

16 The following Use Table identifies uses allowed in each zone. Uses may be
17 modified in Overlay zones under Division 4.9.

18

19

USE OR USE GROUP	Definitions and Standards	Ag AR	Rural Residential R RC RNC			Residential									Commercial / Residential CRN CRT CR			Employment GR NR LSC EOF				Industrial IL IM IH				
						Residential Detached						Residential Townhouse													Residential Multi-Unit	
			RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10											
* * *																										
COMMERCIAL																										
* * *																										
Office and Professional	3.5.8																									
<u>Biohealth Priority Campus</u>	<u>3.5.8.E.</u>																	L					L	L		
Life Sciences	3.5.8.A																							P		
Office	3.5.8.B							C	C	C								P	P	P	P	P	L	P	L	L
Research and Development	3.5.8.C																		P	P			P	L	P	P
Signature Business Headquarters	3.5.8.D																			L						
[Biohealth Priority Campus]	[3.5.8.E.]																									
* * *																										

20 * * *

21 **Sec. 2. DIVISION 59-3.3 is amended as follows:**

22 **Division 3.3. Residential Uses**

23 * * *

24 **Section 3.3.3. Accessory Residential Uses**

25 * * *

26 **G. Home Health Practitioner**

27 * * *

28 **3. Home Health Practitioner (Low Impact)**

29 * * *

30 **c. Registration**

31 Any Home Health Practitioner (Low Impact) must register with DPS.

32 **i. Application Requirements**

33 * * *

34 (j) a copy of the use-and-occupancy permit required
35 [under Section 7.4.2]under Chapter 8; and

36 * * *

37 **Sec. 3. DIVISION 59-3.7 is amended as follows:**

38 **Division 3.7. Miscellaneous Uses**

39 * * *

40 **Section 3.7.2. Solar Collection System**

41 * * *

42 **B. Use Standards**

43 1. Where a Solar Collection System is allowed as a limited use, it must
44 satisfy the following standards:

45 * * *

46 b. In Rural Residential, Residential, Commercial/Residential,
47 Employment, and Industrial zones, where a Solar Collection

48 System is allowed as a limited use, it must satisfy the following
49 standards[in either Subsection 59.3.7.2.B.2.a or
50 59.3.7.2.B.2.b]:

51 * * *

52 **Sec. 4. DIVISION 59-4.2 is amended as follows:**

53 **Division 4.2. Agricultural Zone**

54 **Section 4.2.1. Agricultural Reserve Zone (AR)**

55 * * *

56 **D. Special Requirements for the Transfer of Density**

57 **1. In General**

58 a. Under Section [4.9.15.B]4.9.18.B and in conformance
59 with a general plan, master plan, or functional master
60 plan, residential density may be transferred at the rate of
61 one development right per 5 acres minus one
62 development right for each existing dwelling unit, from
63 the AR zone to a TDR Overlay zone. A development
64 right is not required for the following dwelling units on
65 land in the AR zone as long as the dwelling unit remains
66 accessory to Farming and the principal dwelling:

67 * * *

68 **2. Recording of Development Right**

69 a. A development right may be created, transferred, and
70 extinguished only by an easement and appropriate
71 release, in a recordable form approved by the Planning
72 Board. Any easement must limit the future construction
73 of detached houses on land zoned AR to the total number
74 of development rights allowed by zoning minus all

75 development rights recorded prior to October 30, 2014,
76 all development rights previously transferred under
77 Section 4.2.1.D.1 and Section [4.9.15.B]4.9.18.B, the
78 number of development rights to be transferred by the
79 instant transaction, and the number of existing detached
80 houses on the property.

81 * * *

82 **Sec. 5. DIVISION 59-7.4 is amended as follows:**

83 **Division 7.2. District Council Approvals**

84 * * *

85 **Section 7.2.1. Local Map Amendment**

86 * * *

87 **F. Decision**

- 88 1. The District Council must make its decision to approve, deny, or
89 remand the application to the Hearing Examiner on the record.
- 90 2. Generally, an affirmative vote of [5]6 members of the District Council
91 is required to approve an application; however, an affirmative vote of
92 [6]8 members of the District Council is required to approve an
93 application if:
 - 94 a. approval would be contrary to the recommendation of the
95 municipality in which the property is located; or
 - 96 b. the Planning Board does not recommend approval of the
97 application.

98 If the required number of affirmative votes is not obtained, the
99 application is denied.

100 * * *

101 **Section 7.2.2. Corrective Map Amendment**

102 * * *

103 **E. Decision**

104 * * *

105 2. An affirmative vote of [5]6 members of the District Council is
106 required to approve a Corrective Map Amendment. If the
107 required number of affirmative votes is not obtained, the
108 application is denied.

109 * * *

110 **Section 7.2.3. Sectional and District Map Amendment**

111 * * *

112 **D. Decision**

113 1. The District Council must conduct a public hearing and make its
114 decision to approve with or without modification, deny, or remand the
115 application to the Planning Board for additional analysis.

116 2. Generally, an affirmative vote of [5]6 members of the District Council
117 is required to approve an application; however, an affirmative vote of
118 [6]8 members of the District Council is required to approve an
119 application if:

120 a. approval would be contrary to the recommendation of the
121 municipality in which the property is located; or

122 b. the Planning Board does not recommend approval of the
123 application.

124 * * *

125 **Section 7.2.4. Zoning Text Amendment**

126 * * *

127 **D. Decision**

128 * * *

129 2. A minimum of [5]6 members of the District Council must vote
130 in the affirmative to adopt a Zoning Text Amendment.

131 * * *

132 **Sec. 6. DIVISION 59-7.3 is amended as follows:**

133 **Division 7.3. Regulatory Approvals**

134 * * *

135 **Section 7.3.6. Biohealth Priority Campus Plan**

136 * * *

137 **B. Application Requirements**

138 * * *

139 2. A Biohealth Priority Campus plan application must include:

140 * * *

141 1. plans of proposed development showing:

142 i. use, ground-floor layout, building footprints,
143 massing, and heights of all on-site buildings and
144 structures, and approximate footprints and height
145 for buildings located on abutting and confronting
146 lots;

147 * * *

148 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
149 date of Council adoption.

150

Chapter 611

(House Bill 397)

AN ACT concerning

Maryland–National Capital Park and Planning Commission – Montgomery County – County Council and District Council – Voting Thresholds

PG/MC 100–22

FOR the purpose of adjusting the voting thresholds necessary for the Montgomery County Council or the Montgomery County District Council to take certain actions related to the Maryland–National Capital Park and Planning Commission; and generally relating to the votes of the Montgomery County Council and District Council members.

BY repealing and reenacting, with amendments,

Article – Land Use

Section 15–103(a), 15–106(b), 15–108(b)(1), 18–107, 18–116, 22–209(c), and 23–104(b)

Annotated Code of Maryland

(2012 Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Land Use

Section 15–106(a)

Annotated Code of Maryland

(2012 Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Land Use

15–103.

(a) (1) In Montgomery County, the County Council shall make an appointment to the Commission from a list of applicants.

(2) The list shall be:

- (i) completed at least 3 weeks before an appointment is made; and
- (ii) made available to the public.

(3) If the County Council does not appoint an individual whose name appears on the list or if no name appears on the list, the County Council shall provide for the preparation of a second list and follow the procedures under paragraph (2) of this subsection.

(4) Within 3 days after making an appointment, the County Council shall submit the name of the appointee to the County Executive.

(5) Within 30 days after the appointment is submitted, the County Executive shall approve or disapprove the appointment.

(6) An appointment that is not disapproved by the County Executive in accordance with this subsection is deemed to be approved.

(7) If the County Executive disapproves an appointment, the County Executive shall return the appointment to the County Council with the reasons for the disapproval stated in writing.

(8) By the affirmative vote of [seven] **NINE** of its members, the County Council may appoint a commissioner over the disapproval of the County Executive.

15–106.

(a) The County Executive of Prince George’s County, with the approval of a majority of the members of the County Council, and the Montgomery County Council, with the approval of the County Executive in accordance with subsection (b) of this section, shall each designate a commissioner for the position of chair or vice chair.

(b) (1) Within 3 days after making a designation, the Montgomery County Council shall submit the name of the designee to the County Executive.

(2) Within 30 days after the designation is submitted, the County Executive shall approve or disapprove the designation.

(3) If the County Executive disapproves a designee, the County Executive shall return the name of the designee to the County Council with the reasons for the disapproval stated in writing.

(4) By the affirmative vote of [six] **EIGHT** of its members, the County Council may designate a commissioner for the position of chair or vice chair over the disapproval of the County Executive.

(5) A designation that has not been disapproved by the County Executive in accordance with this subsection is deemed to be approved.

15–108.

(b) (1) (i) With the approval of the County Executive of Montgomery County, the County Council may authorize an appropriate supplementary salary for the commissioner designated by Montgomery County to serve on a full-time basis.

(ii) If the County Executive fails to approve a supplementary salary authorization by the County Council within 30 days after the authorization is submitted, the County Council, by an affirmative vote of [six] **EIGHT** of its members, may authorize the supplementary salary without the approval of the County Executive.

18-107.

(a) Within 3 calendar days after approval of the budgets, each county council shall submit the budgets to the respective county executive.

(b) Within 10 days after delivery of the budgets by the county council, the county executive may disapprove or reduce any item contained in the budgets or the planning work program.

(c) If the county executive disapproves or reduces any item in the budgets, the county executive shall return the budgets to the respective county council with the reasons for the county executive's disapproval or reduction stated in writing.

(d) **(1) [Within] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHIN** 30 days after the respective county executive returns the budgets, each county council may, by affirmative vote of six of its members, reapprove or restore any item over the disapproval of the county executive.

(2) IN MONTGOMERY COUNTY, WITHIN 30 DAYS AFTER THE COUNTY EXECUTIVE RETURNS THE BUDGETS, THE COUNTY COUNCIL MAY, BY AFFIRMATIVE VOTE OF EIGHT OF ITS MEMBERS, REAPPROVE OR RESTORE ANY ITEM OVER THE DISAPPROVAL OF THE COUNTY EXECUTIVE.

18-116.

In Montgomery County, the County Council may amend an approved 6-year capital improvements program at any time by an affirmative vote of [six] **EIGHT** of its members.

22-209.

(c) (1) Except as provided in paragraph (2) of this subsection, an application that seeks a zoning classification not shown as appropriate or suitable in the text or on the land use map of a master plan that the district council has approved under § 21-107 of this article may be granted only by the affirmative vote of [six] **EIGHT** members of the district council.

(2) If the Commission recommends approval of the application for reclassification or if the application is for a zoning classification created after the district council approves the master plan, the affirmative vote of [~~five~~] **SIX** members of the district council is required to grant the application.

23–104.

(b) (1) In Montgomery County:

(i) within 3 days after adopting a subdivision regulation or amendment, the district council shall submit the regulation or amendment to the County Executive; and

(ii) within 10 days after the subdivision regulation or amendment is submitted, the County Executive shall approve or disapprove the regulation or amendment.

(2) If the County Executive disapproves the subdivision regulation or amendment, the County Executive shall return the regulation or amendment to the district council with the reasons for the disapproval stated in writing.

(3) By the affirmative vote of [~~six~~] **EIGHT** of its members, the district council may enact the subdivision regulation or amendment over the disapproval of the County Executive.

(4) A subdivision regulation or amendment that has not been disapproved by the County Executive in accordance with this subsection is considered to be approved.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to the voting threshold necessary to take any action by the Montgomery County Council or the Montgomery County District Council before December 5, 2022.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.