



Committee: PH
Committee Review: Completed
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #VotingRequirements #TechnicalCorrections
#Omnibus

AGENDA ITEM #8
February 7, 2023
Action

SUBJECT

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

Lead Sponsor: Councilmember Friedson

INVITED ATTENDEES

- Jeffrey Zyontz, Acting Chair, Planning Board
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Planning, Housing & Parks (PH) Committee unanimously recommends approval of ZTA 22-11 without amendment.

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.

This report contains:

Staff memorandum	Pages 1-4
ZTA 22-11	© 1
Planning Board Recommendation	© 10
Planning Staff Memorandum	© 12
RESJ Impact Statement	© 17
House Bill 397	© 20

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M E M O R A N D U M

February 2, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

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

PURPOSE: Action – Roll call vote expected

Committee Recommendation (3-0): Approval without amendment.
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INVITED ATTENDEES

- Jeffrey Zyontz, Acting Chair, Planning Board
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department

INTRODUCTION

Zoning Text Amendment (ZTA) 22-11, Technical Corrections, lead sponsor Councilmember Friedson, was introduced on December 13, 2022. ZTA 22-11 will change the voting requirements for map amendments and zoning text amendments and make other technical corrections to the Zoning Ordinance.

PUBLIC HEARING

A public hearing was held on January 17, 2023. The only speaker was the Planning Board Chair, testifying in support.

SUMMARY OF IMPACT STATEMENTS

Planning Board Recommendation

On January 12, 2023, the Planning Board unanimously recommended approval of ZTA 22-11 without amendment.

RESJ Impact Statement

The Office of Legislative Oversight (OLO) provided a Racial Equity and Social Justice (RESJ) Impact Statement on December 19, 2022. OLO found that ZTA 22-11 will have a minimal positive impact on RESJ in the County because it helps implement Expedited Bill 41-21, Elections – Council Districts – Boundaries. Bill 41-21 replaced the Council’s former five district boundaries with seven new districts, increasing the number of Councilmembers by two. The addition of two new districts increased the political representation and power of Black and Latinx residents in the County, thus enhancing RESJ.

DISCUSSION

Voting Changes

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, to account for this increase.

ZTA 22-11 was drafted to be consistent with State law. On May 29, 2022, the State amended the Land Use Article to reflect the increase in Councilmembers. Items requiring 5 votes were increased to 6 votes, and items requiring 6 votes were increased to 8 votes.¹ Therefore, ZTA 22-11 proposes the following changes:

	Current Voting Requirement	New Voting Requirement
Local Map Amendment	5 – to approve an application 6 – if contrary to recommendation of municipality or Planning Board does not recommend approval	6 – to approve an application 8 – if contrary to recommendation of municipality or Planning Board does not recommend approval
Corrective Map Amendment	5 – to approve an application	6 – to approve an application
Sectional and District Map Amendment	5 – to approve an application 6 – if contrary to recommendation of municipality or Planning Board does not recommend approval	6 – to approve an application 8 – if contrary to recommendation of municipality or Planning Board does not recommend approval
Zoning Text Amendment	5 – to approve an application	6 – to approve an application

Other Corrections

ZTA 22-11 also makes several technical corrections. These include removing incorrect references, alphabetizing a section of the use table, and fixing grammatical errors.

¹ The Planning Board noted that increasing from 6 to 8, rather than 7, “seemed unusual”; but that this change had already been codified in State law.

Incorrect references:

- Section 3.1.4.A. Temporary Uses – This section incorrectly references Section 7.4.2. of the Zoning Ordinance as a source for temporary use permits. Temporary use permits are now in Chapter 8. [Line 12]
- Section 3.3.3.G. Home Health Practitioner – This section incorrectly references Section 7.4.2. of the Zoning Ordinance as a source for temporary use permits. Temporary use permits are now in Chapter 8. [Line 34]
- Section 4.2.1.D. Special Requirements for the Transfer of Density – This section incorrectly references Section 4.9.15.B. (Rural Village Center Overlay Zone) when it should reference Section 4.9.18.B. (Transferable Development Rights Overlay Zone). [Lines 57 and 76]

Other references:

- Section 3.7.2. Solar Collection System – This section has been cleaned up to remove random references to use standards that are already within the section. [Line 48-49]

Grammatical & stylistic errors:

- Section 3.1.6. Use Table – Biohealth Priority Campus was incorrectly placed last in the “Office and Professional” section of the Use Table, which should be alphabetized. [Line 18]
- Section 7.3.6. Biohealth Priority Campus – This section has been edited to include a missing comma. [Line 141]

PH COMMITTEE

The PH Committee held a worksession on January 23, 2023. The PH Committee unanimously recommended approval without amendment.

ADDITIONAL AMENDMENT

An additional necessary correction was found after the PH Committee worksession. In Section 3.4.2. of the Zoning Ordinance, there is a sentence that is missing the word “a”:

- i. The site fronts on and has direct access to a road built to Neighborhood Connector or higher standards. Access to a corner lot may be from [a](#) Neighborhood Connector street, if the Hearing Examiner finds this access to be appropriate and not detrimental to existing residential uses on that Neighborhood Connector street.

Council Staff recommends this additional amendment.

This packet contains:

ZTA 22-11

Planning Board Recommendation

© 1

© 10

Planning Staff Memorandum
RESJ Impact Statement
House Bill 397

© 12
© 17
© 20

Ordinance No.: _____
Zoning Text Amendment No.: 22-11
Concerning: Technical Corrections
Revised: 1/30/2023 Draft No.: 2
Introduced: December 13, 2022
Public Hearing: January 17, 2023
Adopted: _____
Effective: _____

**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:

- (1) 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.
Section 7.3.6.

“Regulatory Approvals”
“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

USE OR USE GROUP	Definitions and Standards	Ag AR	Rural Residential				Residential											Commercial / Residential			Employment				Industrial		
							Residential Detached							Residential Townhouse			Residential Multi-Unit										
			R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																											
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.]																			[L]			[L]	[L]			
* * *																											

* * *

19

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

Division 3.3. Residential Uses

* * *

Section 3.3.3. Accessory Residential Uses

* * *

G. Home Health Practitioner

* * *

3. Home Health Practitioner (Low Impact)

* * *

c. Registration

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

i. Application Requirements

* * *

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

* * *

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

Division 3.7. Miscellaneous Uses

* * *

Section 3.7.2. Solar Collection System

* * *

B. Use Standards

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

* * *

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

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

* * *

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

Division 4.2. Agricultural Zone

Section 4.2.1. Agricultural Reserve Zone (AR)

* * *

D. Special Requirements for the Transfer of Density

1. In General

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

* * *

2. Recording of Development Right

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

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

* * *

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

Division 7.2. District Council Approvals

* * *

Section 7.2.1. Local Map Amendment

* * *

F. Decision

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

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

* * *

Section 7.2.2. Corrective Map Amendment

* * *

E. Decision

* * *

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

* * *

Section 7.2.3. Sectional and District Map Amendment

* * *

D. Decision

1. The District Council must conduct a public hearing and make its decision to approve with or without modification, deny, or remand the application to the Planning Board for additional analysis.
2. Generally, an affirmative vote of [5] 6 members of the District Council is required to approve an application; however, an affirmative vote of [6] 8 members of the District Council is required to approve an application if:
 - a. approval would be contrary to the recommendation of the municipality in which the property is located; or
 - b. the Planning Board does not recommend approval of the application.

* * *

Section 7.2.4. Zoning Text Amendment

* * *

D. Decision

* * *

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

* * *

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

Division 7.3. Regulatory Approvals

* * *

Section 7.3.6. Biohealth Priority Campus Plan

* * *

B. Application Requirements

* * *

2. A Biohealth Priority Campus plan application must include:

* * *

1. plans of proposed development showing:

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

* * *

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

January 16, 2022

To: The Honorable Evan Glass
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

From: Montgomery County Planning Board

Subject: Zoning Text Amendment No. 22-11

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on January 12, 2023 and by a vote of 5:0 recommended approval of Zoning Text Amendment (ZTA) 22-11. This ZTA amends the number of affirmative votes required of the District Council to adopt zoning text amendments and various types of zoning map amendments, and makes other minor corrections throughout the Zoning Code.

The ZTA amends the District Council voting requirements under Section 7.2 of the code, increasing the number of affirmative votes required for Local Map Amendments, Corrective Map Amendments, Sectional Map Amendments, and Zoning Text Amendments. The current code has a majority as five votes and a super-majority as six votes. With the increase in the number of Council Members from nine to eleven, these vote thresholds are increased to six and eight, respectively, to be consistent with requirements under state law.

Additional technical corrections are made to the following sections of code:

- Section 3.1.4.A, Temporary Use, In General and Section 3.3.3.G.3 Accessory Residential Use, Home Health Practitioner (Low Impact) correcting the incorrect reference to permits required from Section 7.4.2, to the correct reference under Chapter 8.
- Section 3.1.6. Use Table is updated to alphabetize the uses under the Office and Professional section, placing Biohealth Priority Campus as the first rather than the last use within this section.
- Section 3.7.2.B. Solar Collection System, Use Standards is updated to remove erroneous section references for use standards that are already contained within the section.

- Section 4.2.1.D. Agricultural Reserve Zone, Special Requirements for the Transfer of Density is amended twice to update current references to Section 4.9.15.B to Section 4.9.18.B, to correctly identify where the Transfer of Development Rights Overlay Zone is located.
- Section 7.3.6.B Biohealth Priority Campus, Application Requirements is amended to insert a missing comma in the list of requirements to be shown on submitted plans.

The Planning Board does offer comment that increasing the vote threshold for the super-majority to eight rather than seven seemed unusual but noted this was already codified by state law. The Board appreciates the opportunity to review and provide comment on ZTA 22-11. All of the modifications are technical in nature and do not involve any policy modifications. The Board supports and recommends adoption of ZTA 22-11 as introduced.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, January 12, 2023.



Jeffrey Zyontz
Chair

Attachment A: Staff Report Packet

Montgomery Planning
ZTA 22-11
TECHNICAL CORRECTIONS



Description

ZTA 22-11 makes changes to the voting requirements for map amendments and zoning text amendments in response to the number of Councilmembers increasing from 9 to 11. The ZTA also makes other technical corrections to the Zoning Ordinance.

ZTA 22-11

Completed: 01-05-2023

MCPB

Item No. 07

01-12-2023

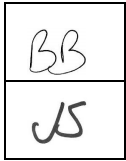
Montgomery County

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INTRODUCED BY

Councilmember Friedson

INTRODUCTION DATE

12/13/2022

REVIEW BASIS

Chapter 59



Summary:

- Staff is recommending the Planning Board transmit comments to the District Council in support of ZTA 22-11.
- On December 5, 2022, the number of Councilmembers increased from 9 to 11, implementing Bill 41-21. This resulted in a need to update the number of affirmative votes required to pass map amendments and zoning text amendments.
- Several other technical corrections include referencing the correct Chapter of County Code for building permits, alphabetizing uses in the use table, removing erroneous code under the Solar Collection System use, and referencing the correct sections for Transfer of Density in AG zones.

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SECTION 1: BACKGROUND

RATIONALE FOR INTRODUCTION

Zoning Text Amendment (ZTA) 22-11 was introduced on December 13, 2022, with Councilmember Friedson as the lead sponsor (Attachment A). The primary driver of this ZTA was to update the voting requirements under Division 7.2, District Council Approvals, to increase the number of council members who must vote in the affirmative for Local Map Amendments (LMAs), Corrective Map Amendments (CMAs), Sectional Map Amendments (SMAs) and Zoning Text Amendments. These updates are necessary to reflect the new 11-member District Council which took effect on December 5, 2022 as a result of Bill 41-21. Other technical corrections needed to Chapter 59 are also included in this ZTA that Council Staff have determined have no policy impact.

SECTION 2: ZTA ANALYSIS

ZTA NO. 22-11 AS INTRODUCED

ZTA 22-11 amends the number of affirmative votes required by the District Council to approve map amendments and ZTAs, under Division 7.2 of the Zoning Code. The number of councilmembers increased from 9 to 11 with the swearing in of the new council on December 5, 2022. The proposed changes to the code in Division 7.2 increase the number of affirmative votes required for a simple majority from five (5) to six (6). Where votes require a super-majority for passage, the vote count required is increased from six (6) to eight (8). The simple majority is a sufficient vote under most circumstances to approve map amendments or ZTAs, however super-majority votes are required when the vote either is contrary to the recommendations of a municipality within which the subject property is located, or if the Planning Board did not recommend approval of the action. The ZTA also brings Chapter 59 in line with State law. The number of required affirmative votes required of the District Council for Montgomery County was amended in 2022 through State House Bill 397, PG/MC 100-22, which adjusted the voting thresholds necessary in Montgomery County by amending various sections of the Land Use Article, Section 15 of State Code (Attachment B).

The ZTA also would make technical corrections in multiple other sections of the code:

- Section 3.1.4.A, Temporary Use, In General and Section 3.3.3.G.3 Accessory Residential Use, Home Health Practitioner (Low Impact) currently incorrectly reference permits required under Section 7.4.2, which instead should reference permits required under Chapter 8.

- Section 3.1.6. Use Table is updated to alphabetize the uses under the Office and Professional section, placing Biohealth Priority Campus as the first rather than the last use within this section.
- Section 3.7.2.B. Solar Collection System, Use Standards is updated to remove erroneous section references for use standards that are already contained within the section.
- Section 4.2.1.D. Agricultural Reserve Zone, Special Requirements for the Transfer of Density is amended twice to update current references to Section 4.9.15.B to Section 4.9.18.B, to correctly identify where the Transfer of Development Rights Overlay Zone is located.
- Section 7.3.6.B Biohealth Priority Campus, Application Requirements is amended to insert a missing comma in the list of requirements to be shown on submitted plans.

ZTA NO. 22-11 STAFF RECOMMENDATIONS

Staff recommends the Planning Board transmit comments to the District Council supporting ZTA 22-11 as introduced.

SECTION 3: LEGISLATED ANALYSIS

RACIAL EQUITY & SOCIAL JUSTICE

The Office of Legislative Oversight (OLO) completed a Racial Equity and Social Justice (RESJ) analysis for ZTA 22-11 dated December 19, 2022 (Attachment C). The analysis found that the ZTA would have a minimal, positive impact on RESJ, as it in part implements Bill 41-21 which expanded the number of Council seats from 9 to 11 and increased the number of Council Districts from 5 to 7, expanding the opportunity for political representation for Black and Latinx residents. The other technical changes are considered neutral. OLO has no recommended amendments to the ZTA from an RESJ perspective.

SECTION 4: CONCLUSION

Staff recommends the Planning Board transmit comments to the District Council supporting ZTA 22-11 as introduced. The corrections to Division 7.2 for the District Council votes are required to remain in compliance with the majority requirements set forth by state law. The other identified changes to Chapter 59 are technical corrections which have no policy impacts and would improve the accuracy of the code.

ATTACHMENTS

Attachment A – ZTA 22-11 Introduction Packet

Attachment B – House Bill 397 PG/MC 100-22

Attachment C – RESJ Statement for ZTA 22-11

Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

ZTA 22-11: TECHNICAL CORRECTIONS

SUMMARY

The Office of Legislative Oversight (OLO) finds that Zoning Text Amendment 22-11, Technical Corrections, will have a minimal, positive impact on racial equity and social justice (RESJ) as it helps implement Expedited Bill 41-21, Elections – Council Districts – Boundaries,¹ that increased political representation for Black and Latinx residents in the County.²

PURPOSE OF RESJ STATEMENTS

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.³ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.⁴

PURPOSE OF ZTA 22-11

In December 2021, the County Council enacted Expedited Bill 41-21, Elections – Council Districts – Boundaries, replacing the Council’s former five district boundaries with seven new districts. This increased the total number of County Councilmembers from 9 to 11 with the 20th County Council.⁵ If enacted, ZTA 22-11 will increase the number of affirmative votes required for zoning text amendments and zoning map amendments. ZTA 22-11 will also make several technical corrections to the Zoning Ordinance, including removing incorrect references, alphabetizing a section of the use table, and fixing grammatical errors.⁶ ZTA -22-11 was introduced on December 13, 2022.

Of note, the Zoning Ordinance describes permissible land uses for property in the County outside of its municipalities.⁷ It establishes zones that permits various uses such as agriculture, residential, commercial, and industrial. The Zoning also sets standards for permitted density of development, location of structures, building heights, setbacks, and lot area for each zone.⁸ The Zoning Map describes the County’s zones visually. Changes to the Zoning Ordinance require Council approval via zoning text amendments (ZTAs) while changes to the Zoning Map require zoning map amendments.

On November 3, 2022, OLO published a RESJ impact statement (RESJIS) for Expedited Bill 29-22, Local Laws – Updates to Required Numbers of Councilmember Votes.⁹ This RESJIS builds from the RESJ analysis described in the RESJIS for Bill 29-22. For background on voting rights, political representation, and the RESJ impact of redistricting, see the RESJIS for Expedited Bill 41-21.¹⁰

ANTICIPATED RESJ IMPACTS

Expedited Bill 41-21 created two new Council districts where Black and Latinx persons respectively comprise the largest group of residents: District 5 where Black residents are the largest racial group and District 6 where Latinx residents are the largest ethnic group. The addition of two new districts increased the political representation and power of Black and Latinx residents in the County and thus enhances RESJ.¹¹

RESJ Impact Statement

Zoning Text Amendment 22-11

Since ZTA 22-11 helps to implement Expedited Bill 41-21, OLO anticipates that it will have a positive impact on RESJ in the County. Given this and the other technical changes included in this ZTA, OLO anticipates a minor RESJ impact.

RECOMMENDED AMENDMENTS

Bill 44-20 amending the County's Racial Equity and Social Justice Act¹² requires OLO to consider whether recommended amendments aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements for zoning text amendments. OLO finds ZTA 22-11 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this RESJ impact statement should be noted. First, predicting the impact of zoning text amendments on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement on the proposed zoning text amendment is intended to inform the Council's decision-making process rather than determine it. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the ZTA under consideration.

CONTRIBUTIONS

Elsabett Tesfaye, OLO Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Montgomery County Council Expedited Bill 41-21: Elections-Council Districts-Boundaries. Enacted December 7, 2021 [Montgomery County Council - Legislative Information Management System – bill details \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/legislativemanagement/bills/41-21)

² Racial Equity and Social Justice Impact Statement for Expedited Bill 41-21, Office of Legislative Oversight, Montgomery County, Maryland, December 7, 2021.

[Expedited Bill 41-21: Elections – Council Districts – Boundaries \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/legislativemanagement/bills/41-21)

³ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.raciaequitytools.org/glossary>

⁴ Ibid

⁵ Bohnel, Steve. “Marc Elrich, 20th County Council laud historic inauguration day”. Bethesda Beat. December 5, 2022.

<https://bethesdamagazine.com/2022/12/05/marc-elrich-20th-county-council-laud-historic-inauguration-day-for-local-government/>

⁶ Montgomery County Council. Introduction: Agenda Item #3A December 13, 2022

[Zoning Text Amendment No: 10-xx \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/legislativemanagement/bills/10-xx)

⁷ The Zoning Ordinance refers to Chapter 59 of the County Code,

https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-1. For description of the Zoning Ordinance, also see “Everything That You Always Wanted to Know About Planning, Zoning and Subdivision in Montgomery County, Maryland.” Montgomery County Planning Board. March 1991 (4th Edition).

⁸ Ibid

⁹ Montgomery County Council, Bill 29-22E, Local Laws-Updates to Required Numbers of Councilmember Votes. Racial Equity and Social Justice (RESJ) Impact Statement Office of Legislative Oversight: November 3, 2022.

[RESJIS Expedited Bill 29-22: Local Laws – Updates to Required Numbers of Councilmember Votes \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/legislativemanagement/bills/29-22)

¹⁰ Montgomery County Council Bill 41-21E: Elections-Council Districts-Boundaries.

¹¹ Montgomery County Council Bill 29-22E: Local Laws-Updates to Required Numbers of Councilmember Votes

¹² Racial Equity and Social Justice (RESJ) Impact Statement for Bill 44-20, Office of Legislative Oversight Montgomery County, Maryland, December 1, 2020.

RESJ Impact Statement

Zoning Text Amendment 22-11

[Montgomery County Council - Legislative Information Management System – bill details \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/legis/legisinfo/legisinfo.aspx?bill=22-11)

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.