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Montgomery County Business Legislative Update

Volume 2, Issue 6



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June 2009

**Montgomery
County's
Business Law
Firm**

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For questions, to testify, or to meet with Councilmembers about proposed legislation, please call or email your attorney or [Melissa G. Bernstein](#) or [Anne Marie Vassallo](#) at 301-230-5200 or send an email to us at GovernmentRelations@srgpe.com

**Lobbyists in State
of Maryland and/or
Montgomery County:**

HIGHLIGHTS

Below are the highlights that are featured in the May 2009 edition of the Montgomery County Business Legislative Update:

- * The County Council introduced **Zoning Text Amendment 09-03 - Home Occupations and Residential Off-street Parking**. This multi-faceted ZTA would limit or abolish parking or some commercial vehicles in residential zones and would impose new or stricter requirements on home-based occupations. See details below in the Planning, Housing and Economic Development Section (PHED) - [ZTA 09-03](#)
- * The County Council introduced **Bill 24-09 - Buildings - Permits and Inspections**. This Bill would change building permit and inspection requirements for some construction. See details below in the Transportation,

COUNCILMEMBER CORNER



Marc Elrich was elected to his first at-large term in November 2006. Marc brings to the Council extensive experience in local government, civic involvement, and public education. Marc served 10 terms as a member of the Takoma Park City Council where he

focused on practical solutions to the problems faced by his constituents. He helped oversee a budget of \$19.3 million and the services the City provides directly, including a library, housing department, police service, public works, recreation facilities, waste collection and recycling program. He championed the City's efforts to make affordable, safe and high-quality rental housing available and has worked to help tenants purchase and become owners of their apartment buildings.

Marc developed expertise in planning, economic development and transportation while serving on the Montgomery County Transportation Policy Report Task Force, the Silver Spring Redevelopment Task Force and on a County advisory committee reviewing a sector plan. He was president of his civic association and has been a leader in civic groups working to decrease traffic congestion. He also has been an active member of citizen groups advocating for improvements for schools, sustainable development, the environment equality and rights.

Melissa Bernstein
 Tim Dugan
 David Freishtat
 Larry Gandal
 Larry Gordon
 Alexis Peters
 Nancy Regelin
 Larry Shulman
 Anne Marie Vassallo
 Eric von Vorys
 Tim Dugan
 Mike Froehlich
 Kevin Kennedy

Location:

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 Third Floor
 Rockville, MD 20852
 301.230.5200

Archives:

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Infrastructure, Energy & Environment Section (T&E) - [Bill 24-09.](#)

* The County Council introduced [Bill 22-09 - Enforcement of County Laws - Notice of Violation - Appeals](#). This Bill would reduce some appeal options when the County undertakes certain enforcement action. See details below in the Transportation, Infrastructure, Energy & Environment Section (T&E) - [Bill 22-09.](#)

* Please visit our Councilmember Corner Section. This month features Councilmember [Marc Elrich](#).

Marc serves on the Montgomery County Council's Planning, Housing and Economic Development Committee (PHED). Serving on the PHED Committee allows him to focus on ensuring that development occurs at a pace that fits our infrastructure's ability to handle it. Today our schools, roads, police and fire services are falling behind. Marc also serves on the Council's Public Safety Committee, where he takes a special interest in juvenile issues. As a 5th grade teacher at Rolling Terrace Elementary School for 16 years, Marc was a strong supporter of smaller class sizes, school modernization and curriculum that helps students to learn. As a Councilmember, he focuses on improving education and opportunity for all Montgomery County students.

Marc attended Montgomery County Public Schools and graduated from Einstein High School. He earned a BA in History from the University of Maryland and a Masters in Teaching from Johns Hopkins University. Marc raised his now adult children in Montgomery County and has three grandchildren.

PENDING BUSINESS LEGISLATION

Health & Human Services (HHS)

Eating and Drinking Establishments – Nutrition Labeling

Requires certain eating and drinking establishments to post certain nutrition information on menu boards and menus – [Bill 19-07](#)

- Introduced July 31, 2007 by Leventhal
- Public Hearing: September 18, 2007; 7:30pm
- HHS Worksession: September 24, 2007
- Resolution to extend expiration date until 08/31/09

Management & Fiscal Policy (MFP)

Ethics - Ex Parte Communications

Further defines which communications are allowed when a decision must be made on the basis of a hearing record; and generally amend the County law regarding communications to decision-makers - [Bill 12-09](#)

- Introduced March 31, 2009 by Andrews, Berliner, Floreen, Ervin and Leventhal
- Public Hearing: April 28, 2009; 1:30pm
- Worksession: June 15, 2009; 2:00pm **NEW**

Development Impact Tax - Deferral

Authorizes the deferral of certain development impact tax payments for a certain period; and generally amend the law regarding payment of impact taxes - Expedited [Bill 4-09](#)

- Introduced February 10, 2009 by Andrews at the request of the County Executive
- Public Hearing: March 3, 2009; 1:30pm
- MFP Worksession: March 9, 2009; 2:00pm; April 14, 2009; 2:00pm; May 13, 2009; 9:00am; June 22, 2009; 2:00pm **NEW**
- Committee recommends approval with amendments **NEW**

Planning, Housing & Economic Development (PHED)

Zoning Text Amendment - Home Occupations and Residential Off-street Parking

Amendment to County Zoning Ordinance to amend the provisions and definitions concerning home occupations; amend the provisions for violations; amend the definition of a commercial vehicle; add a definition of a light commercial vehicle; add definitions associated with off-street parking and home occupations; require a use-and-occupancy permit for a one-family detached dwelling; limit the amount of surfaced area in front yards for certain one-family zones; limit parking in front yards to surfaced area; limit off-street parking in clustered agricultural zones; amend the provisions for renewing a special exception for a home occupation; and generally amend the provisions related to home occupations, off-street parking; and violations of the Zoning Ordinance - [ZTA 09-03](#)

- Introduced May 5, 2009 at the request of the County Executive
- Public Hearing: June 9, 2009; 7:30pm

Zoning Text Amendment - Special Provision - Parcel Consolidation

Amends the Zoning Ordinance to allow 2 or more tracts of land created by

deed or plat before June 1, 1958 to be consolidated by record plat into 1 buildable lot without regard to the width and size requirements of the underlying zone, if the tracts of land are under common ownership, and a habitable one-family dwelling crossed a property line created by a deed or plat - [ZTA 09-02](#)

- Introduced April 21, 2009 by Councilmember Berliner
 - Public Hearing: June 9, 2009; 1:30pm
-

Land Use - Christmas Tree Sales

Amendment to delete or revise the date restrictions for Christmas tree sales; and generally amend the provisions for Christmas tree sales and the sale of seasonal decoration - [ZTA 08-18](#)

- Introduced December 9, 2008 by the District Council at the request of County Executive
 - PHED Worksession: February 23, 2009; 2:00pm
-

Landscape Contractors – General Commercial (C-2) Zone

Allows a landscape contractor as a permitted use in the C-2 zone under certain circumstances – [ZTA 08-12](#)

- Introduced June 10, 2008 by Floreen
 - Public Hearing: July 15, 2008; 1:30pm
 - PHED Worksession: July 21, 2008; 9:30am
-

Fenton Village Overlay Zone – Hotel Height

Allows additional building height to accommodate hotels in mixed-use optional method of development projects in the Fenton Village Overlay Zone and generally amends building heights in the Fenton Village Overlay Zone – [ZTA 08-10](#)

- Introduced May 6, 2008 by Ervin and Elrich
 - Public Hearing: June 17, 2008; 1:30pm
 - PHED Worksession: June 26, 2008; 2:00pm; July 28, 2008; 2:00pm
-

Transit-Oriented Mixed-Use Zones

Establishes the Transit-Oriented Mixed-Use 1.0 (TOMX-1) and the Transit-Oriented Mixed Use 1.0/Transferable Development Rights (TOMX-1/TDR) Zones, established the allowable land uses, development standards, and approval procedures for development in these zones and amends the land uses, development standards, and approval procedures for development in the TOMX-2 and the TOMX-2/TDR Zones – [ZTA 08-05](#)

- Introduced April 8, 2008 by the District Council at the request of the Planning Board
- Public Hearing: May 20, 2008; 7:30pm

- PHED Worksession: June 16, 2008; 2:00pm
-

Green Area Definition - Amendments

Generally amends the definition of “green area” and excludes any building roof area from such definition – [ZTA 08-01](#)

- Introduced January 15, 2008 by Elrich
 - Public Hearing: February 26, 2008; 1:30pm
 - PHED Worksession: March 6, 2008; 9:30am; April 7, 2008; 2:00pm; June 26, 2008; 2:00pm
-

Moderately Priced Housing – Amendments

Revises the standards for setting sales prices for moderately priced dwelling units (MPDU) and revises the control periods and building standards of MPDU's. Also repeals the authority of the Director of the Department of Housing and Community Affairs to allow applicant to pay into the HIF instead of the MPDU subdivision – [Bill 38-07](#).

- Introduced December 11, 2007 by Knapp at the request of the County Executive
 - Public Hearing: February 5, 2008; 1:30pm
 - PHED Worksession: February 5, 2008; 1:30pm; Postponed to March 13, 2008; 2:30pm; March 17, 2008; 9:30am; March 31, 2008; 2:30pm; September 25, 2008; 2:00pm; October 13, 2008; 2:00pm; November 24, 2008; 2:00pm; December 1, 2008; 2:00pm; January 15, 2009; 2:00pm; February 5, 2009; 3:30pm; February 23, 2009; 2:00pm; March 30, 2009; 2:00pm; June 29, 2009; 2:00pm **NEW**
 - Action: Resolution to extend expiration date until December 31, 2009 **NEW**
-

Planned Development Zones – Requirements

Allows Planned Development Zones on certain commercially zoned sites, provides a standard for commercial density in Planned Development Zones, and removes the requirement that in Planned Development Zones development in or adjoining a central business district must comply with the use recommended in a master plan – [ZTA 07-13](#)

- Introduced September 11, 2007 by Praisner at the request of the County Executive
 - Public Hearing: October 16, 2007; 1:30pm
 - PHED Worksession: January 22, 2008; 2:30pm
-

Rural Density Transfer – Child Lot Standards

Amends the density calculations in the Rural Density Transfer Zone to clarify

that the number of child lots must not exceed the allowable base density – [ZTA 07-09](#)

- Introduced June 12, 2007 by Praisner on behalf of the Maryland-National Capital Park and Planning Commission
 - Public Hearing: July 19, 2007; 7:30pm
 - PHED Worksession: September 10, 2007; March 10, 2009; 2:00pm
-

Transfer of Development Rights – Standards

Eliminates the requirement that a development must use at least two-thirds of the allowable number of transferable development rights in order to use any transferable development rights – [ZTA 07-08](#)

- Introduced June 12, 2007 by Praisner at the request of the Ad Hoc Agricultural Policy Working Group
 - Public Hearing: July 19, 2007; 7:30pm
 - PHED Worksession: TBD
-

Child Lot Standards

Amends the density calculations in the Rural Density Transfer Zone to exclude a lot for a child under specified conditions, and amends the standards to approve a child lot in the Rural Density Transfer Zone – [ZTA 07-06](#)

- Introduced June 12, 2007 by Praisner at the request of the Ad Hoc Agricultural Policy Working Group
 - Public Hearing: July 19, 2007; 7:30pm
 - PHED Worksession: September 10, 2007
-

Workforce Housing – Options

Clarifies that a developer in a Metro Station Policy Area may voluntarily provide workforce housing – [ZTA 07-03](#)

- Introduced March 27, 2007 by Floreen
 - Public Hearing: June 12, 2007; 1:30pm
 - PHED Worksession: June 18, 2007
-

Transferable Development Rights – Subdivision Standard

Eliminates the requirement that a development must use at least two-thirds of the allowable number of transferable development rights in order to use any

transferable development rights – [SRA 07-02](#)

- Introduced June 12, 2007 by Praisner at the request of the Ad Hoc Agricultural Policy Working Group
 - Public Hearing: July 19, 2007; 7:30pm
 - PHED Worksession: TBD
-

Public Safety (PS)

Transportation, Infrastructure, Energy & Environment (T&E)

Buildings - Permits and Inspections **NEW**

Revises the validity periods for building permits for certain dwelling units; revises inspection requirements for certain dwelling units; and generally amends County law governing building permits - [Bill 24-09](#)

- Introduced May 5, 2009 by the Council President at the request of the County Executive
 - Public Hearing: June 9, 2009; 7:30pm
-

Unused Vehicles - Storage **NEW**

Amends the definition of rubbish in Chapter 26; limits the storage of unused vehicles on residential property; and generally amends County law governing the storage of unused vehicles - [Expedited Bill 23-09](#)

- Introduced May 5, 2009 by the Council President at the request of the County Executive
 - Public Hearing: June 9, 2009; 7:30pm
-

Enforcement of County Laws - Notice of Violation - Appeals **NEW**

Authorizes an enforcement agency to issue a notice of violation to enforce certain County laws; limits the jurisdiction of the Board of Appeals regarding certain enforcement actions taken by certain enforcement agencies; clarifies when certain appeals may be taken and removes the right to appeal certain

orders and decisions; makes technical corrections and repeals obsolete provisions of law; and generally amends County law regarding enforcement - [Bill 22-09](#)

- Introduced by the Council President at the request of the County Executive
 - Public Hearing: June 9, 2009; 7:30pm
-

Parking Lot Districts - Use of Revenue

Expands the use of Parking Lot District revenues for transit service serving the Parking Lot District; and generally amends the law regarding the use of parking lot district funds - [Expedited Bill 17-09](#)

- Introduced April 14, 2009 by Councilmembers Floreen, Knapp, Elrich, Leventhal, and Council President Andrews
 - Public Hearing: May 5, 2009; 7:30pm
 - T&E Worksession: April 27, 2009; 9:00am; May 8, 2009; 11:00am; June 15, 2009; 9:30am **NEW**
-

Forest Conservation – Amendments

Amends the County forest conservation law in various areas, including: the removal of certain exemptions from the Forest Conservation Law, establishes criteria for certain levels of review when applying for plans, revises requirements for reforestation, financial security, appeal procedures and variance requirements, and repeals provisions related to the Forest Conservation Advisory Committee and the County Arborists – [Bill 37-07](#)

- Introduced December 11, 2007 by Knapp at the request of the Planning Board
 - Public Hearing: January 22, 2008; 7:30pm
 - T & E Worksession: February 7, 2008; 9:30am; Postponed to February 19, 2008; 9:30am, postponed to March 17, 2008; 9:30am, postponed to July 14, 2008; 9:30am; July 28, 2008; 9:30am; September 8, 2008; 9:30am; September 22, 2008; 9:30am; October 6, 2008; 9:30am; November 24, 2008; 9:30am
-

Taxicabs – Passenger Vehicle Licenses

Authorizes the Department of Public Works and Transportation to award a certain number of passenger vehicle licenses under certain circumstances – Expedited [Bill 26-07](#)

- Introduced October 30, 2007 by Praisner at the request of the County Executive
 - Public Hearing: November 13, 2007; 1:30pm
 - T & E Worksession: October 6, 2008; 9:30am
-

Taxicab Driver Identification Cards

Allows the Department of Public Works and Transportation to issue temporary taxicab driver identification cards to an applicant without obtaining both a state and a federal background check in certain instances – Expedited [Bill 17-07](#)

- Introduced June 26, 2007 by Ervin and Floreen
- Public Hearing: July 24, 2007; 1:30pm
- T & E Worksession: July 26, 2007

Outdoor Lighting Standards – Established

Establishes outdoor lighting standards, including standards relating to shielding, aiming, efficacy, color rendition, power density, illuminance, luminance, controls, and off-site spill, and requires a person to obtain approval of a lighting plan from the Department of Permitting Services before applying to the Planning Board for site plan approval or to the Board of Appeals for a special exception – [Bill 4-07](#)

- Introduced February 13, 2007 by Praisner
- Public Hearing: March 20, 2007; 1:30pm
- T & E Worksession: March 12, 2007

Outdoor Lighting Standards

Makes standards and procedures governing outdoor lighting consistent with the County Light Control Law, and requires nonconforming lighting to comply with the County Light Control Law – [ZTA 07-01](#)

- Introduced February 13, 2007 by Praisner and Trachtenberg
- Public Hearing: March 20, 2007; 1:30pm
- T&E Worksession: TBD

**BUSINESS LEGISLATION ENACTED
WITHIN THE LAST 30 DAYS**
See Also [archives](#)

BILLS

New Construction - Deferral

Authorizes the deferral of certain permit, inspection, license, and engineering fee payments for a certain period; extend the time for abandonment of a building permit; extend the time for recording an initial building inspection; and generally amend the laws regarding permits and related fees - Expedited [Bill 5-09](#)

- Enacted - LMC 2009 - Ch. 10
-

Local Small Business Reserve Program

Increases the minimum percentage of the combined dollar value of certain contracts that each using department must award to local small businesses - Expedited [Bill 3-09](#)

- Enacted - LMC 2009 - Ch. 9
-

Finance - Spending Disclosure

Requires the County to develop and operate a website that includes information on certain County payments to contractors and grantees; providing guidelines for public access to the information on the website; and generally amend the County law governing public access to information and county payments. [Bill 1-09](#)

- Enacted - LMC 2009 - Ch. 4
-

Forest Conservation – Enforcement

Prohibits the Director of Permitting Services from issuing a building permit if land was cleared in violation of the forest conservation law, and allows an aggrieved party to file a private civil action to enforce the forest conservation law – Expedited [Bill 14-07](#)

- Enacted - Ordinance No. 16-816
-

Motor Vehicles and Traffic – Parking Regulations – Commercial Vehicles, Recreational Vehicles, and Buses

Prohibits the parking of commercial vehicles, buses, and recreational vehicles in certain areas and generally amends the law regarding vehicle parking – [Bill 27-08](#)

- LMC 2009 - Chap. 1
-

Moderately Priced Dwelling Units – Amendments

Allows the Director of the Department of Housing and Community Affairs to set aside certain specially-equipped moderately priced dwelling units for eligible people with disabilities, and repeals the authority of the Director to allow an applicant to pay into the Housing Initiative instead of building some or all of the required moderately priced dwelling units in a proposed subdivision – [Bill 13-07](#)

- Enacted - _____
-

ZONING TEXT AMENDMENTS

Adequate Public Facilities - Validity Period

Extends the standard validity period for a determination of adequate public facilities under the subdivision regulations from 5 to 7 years and extend by 2 years the validity period of any preliminary subdivision plan approved since January 1, 2004 - [SRA 09-01](#)

- Enacted - Ordinance No. 16-35
-

Wheaton Central Business Districts

Amendment revising the boundaries of the Wheaton Central Business District - [ZTA 08-17](#)

- Enacted - Ordinance No. 16-34
-

Workforce Housing – Findings, Subdivision Regulations

Allows certain preliminary plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site; and generally amends provisions relating to preliminary plans – [SRA 08-04](#)

- Enacted - Ordinance No. 16-33
-

Workforce Housing - Findings

Allows certain development plans or project plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site and generally amends provisions relating to Development Plans and Project Plans – [ZTA 08-16](#)

- Enacted - Ordinance No. 16-32
-

Transit Mixed-Use Zone (TMX)

Establishes a Transit Mixed-Use (TMX) zone and establishes allowable land uses, development standards, use of buildable transferable development rights, and approval procedures for development under the Transit Mixed-Use zone; intended to implement the land use and density recommendations of the Draft Twinbrook Sector Plan by replacing the Transit-Oriented Mixed Use (TOMZ) zoning recommendation – [ZTA 08-14](#)

- Enacted - Ordinance No. 16-29
-

Adequate Public Facilities – Validity Period

Revises the validity period of a finding of adequate public facilities by the Planning Board, and revises the process and standards to extend a finding of adequacy – [SRA 07-01](#)

- Enacted - Ordinance No. 16-10

SPECIAL NOTES

- In May 2009, the Maryland General Assembly passed a bill creating a Maryland Tax Amnesty Program, the first in the state since 2001. The program provides for waiver or reduction of some interest and penalties only during the short amnesty period which extends from September 1 through October 30, 2009. Email GovernmentRelations@srgpe.com to learn more about the Amnesty Program and eligibility.
- The City of Rockville has introduced significant changes to the Building Regulations Section of the City Code including a Green Building Section which would require all new construction of 7,000 g.s.f. or greater to achieve the equivalent of LEED Silver. A public hearing on these proposed changes to the Code is planned for July 13, 2009.
- Park and Planning has introduced its Semi-Annual Report which alters its Master Plan and Sector Plan schedules. Email GovernmentRelations@srgpe.com to learn of any current or upcoming Master Plans or Sector Plans affecting your property.

Here is the legal part: (1) The information contained in this publication should not be construed as legal advice. Please communicate with your attorney for legal advice. (2) This Business Legislative Update highlights legislation which the Government Relations Group believes to be relevant to the interests of the business community. (3) The legislation reported here is not exhaustive. Information is correct as of June 1, 2009. Dates are subject to change.

For questions, to testify, or to meet with Councilmembers about proposed legislation in Montgomery County, please call or email your attorney or [Melissa G. Bernstein](mailto:Melissa.G.Bernstein) or [Anne Marie Vassallo](mailto:Anne.Marie.Vassallo) at 301-230-5200 or send an email to us at GovernmentRelations@srgpe.com

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