

Volume 3, Issue 3


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March 2010

**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@shulmanrogers.com

**Lobbyists in State
of Maryland**

Anne Marie Vassallo
 Larry Gordon
 Larry Shulman

HIGHLIGHTS

BELOW ARE THE HIGHLIGHTS THAT ARE FEATURED IN THE FEBRUARY 2010 EDITION OF THE MONTGOMERY COUNTY BUSINESS LEGISLATIVE UPDATE:

- **EXPEDITED BILL 5-10** - ECONOMIC DEVELOPMENT - BIOTECHNOLOGY CREDIT - COUNTY SUPPLEMENT - AMENDS THE LAW GOVERNING COUNTY FINANCIAL INCENTIVES FOR INVESTMENT IN CERTAIN BUSINESSES
- **EXPEDITED BILL 6-10** - NOISE CONTROL - ARTS AND ENTERTAINMENT ACTIVITIES - AMENDS THE COUNTY NOISE CONTROL LAW
- **EXPEDITED BILL 7-10** - MOTOR VEHICLES AND TRAFFIC - SPEED MONITORING SYSTEMS- REGULATES THE USE OF SPEED MONITORING SYSTEMS IN THE COUNTY

PENDING BUSINESS LEGISLATION

Health & Human Services (HHS)

No pending legislation

Management & Fiscal Policy (MFP)

Montgomery County:

Melissa Bernstein
 Tim Dugan
 David Freishtat
 Larry Gandal
 Larry Gordon
 Alexis Peters
 Nancy Regelin
 Larry Shulman
 Anne Marie Vassallo

Prince George's County:

Anne Marie Vassallo
 Larry Gordon
 Larry Shulman

Office Location:

12505 Park Potomac Avenue
 Sixth Floor
 Potomac, MD 20854
 301.230.5200

Archives:Enacted Legislation

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Taxation - Impact Taxes - Inflation Adjustment - Temporary Suspension

Expected act to temporarily suspend requirement to adjust certain impact tax rates for inflation and generally amend the law governing impact tax rates - [Bill 32-09](#)

- Introduced June 16, 2009 by Elrich
- MFP Worksession: September 21, 2009; 2:00pm; September 29, 2009; 2:00pm; February 8, 2010; 2:00pm
- Public Hearing: September 15, 2009; 1:30pm
- Expires: January 28, 2011

Ethics - Amendments

Amends the County ethics law to conform to a State Ethics Commission requirement and clarify and update other provisions of the County law - [Bill 27-09](#)

- Introduced June 16, 2009 by the Council President Andrews at the request of the Ethics Committee
- MFP Worksession: September 21, 2009; 2:00pm; November 23, 2009; 2:00pm; February 24, 2010; 9:30am
- Public Hearing: July 14, 2009; 1:30pm; September 15, 2009; 1:30pm
- Expires: December 16, 2010

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
- MFP Worksession: June 15, 2009; 2:00pm; June 22, 2009; 2:00pm; July 27, 2009; 2:00pm; September 21, 2009; 2:00pm; November 23, 2009; 2:00pm; February 24, 2010; 9:30am; March 1, 2010; 2:00pm **NEW**
- Public Hearing: April 28, 2009; 1:30pm
- Expires: October 1, 2010

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
- MFP Worksession: March 9, 2009; 2:00pm; April 14, 2009; 2:00pm; May 13, 2009; 9:00am; June 22, 2009; 2:00pm; February 8, 2010; 2:00pm
- Committee recommends approval with amendments
- Public Hearing: March 3, 2009; 1:30pm
- Expires: August 10, 2010

Planning, Housing & Economic Development (PHED)

Economic Development - Biotechnology Credit - County Supplement

NEW

Expedited Act authorizing County to supplement the state biotechnology investment incentive tax credit and generally amend the law governing County financial incentives for investment in certain businesses - [Expedited Bill 5-10](#)

- Introduced February 2, 2010 by Council President Floreen, Council Vice President Ervin, Knapp, Leventhal and Trachtenberg
- PHED Worksession: March 1, 2010; 2:00pm
- Public Hearing: February 23, 2010; 1:30pm
- Expires: August 2, 2011

Workforce Housing - Voluntary

Amendment defining the term "workforce housing unit" and providing standards for development of workforce housing units - [ZTA 10-01](#)

- Introduced January 26, 2010 by PHED
- Public Hearing: February 9, 2010; 1:30pm; Rescheduled for March 2, 2010; 1:30pm

NEW

Residential Townhouse (RT) Zones - Existing Dwellings

Amendment adding a provision to make certain existing structures conforming - [ZTA 10-02](#)

- Introduced February 9, 2010 by Council Vice President Ervin and Elrich
- Public Hearing: February 9, 2010; 1:30pm; March 16, 2010; 1:30pm **NEW**

Workforce Housing - Voluntary

Amendment modifying requirement for workforce housing - [Bill 4-10](#)

- Introduced February 2, 2010 by PHED
- PHED Worksession: March 4, 2010; 2:00pm **NEW**
- Public Hearing: March 3, 2010; 1:30pm

Residential Zones - Agricultural Vending

Allows the sale of farm produce by Certified Agricultural Producers in residential zones under certain circumstances - [ZTA 09-11](#)

- Introduced November 17, 2009 by Berliner
- PHED Worksession: January 21, 2010; 9:30am; April 5, 2010; 2:00pm **NEW**
- Public Hearing: January 12, 2010; 1:30pm
- Expires: August 2, 2011

Transit Mixed-Use (TMX) Zone - Prior Approvals

Allows any approved development plan, supplementary plan or site plan to construct subject to the applicable approval; allows amendments to preliminary plans and site plans approved under any prior zone under certain circumstances - [ZTA 09-13](#)

- Introduced December 1, 2009 by PHED
- PHED Worksession: January 21, 2010; 9:30am
- Public Hearing: January 19, 2010; 1:30pm; February 2, 2010; 11:00am
PHED Committee recommends approval with amendments **NEW**

Growth Policy - Amendments

Renames and modifies the County Growth Policy and revises the process to adopt and amend the County Growth Policy - [Bill 38-09](#)

- Introduced November 3, 2009 by Floreen and Knapp
- PHED Worksession: December 7, 2009; 2:00pm; January 21, 2010; 9:30am
- Public Hearing: December 1, 2009; 1:30pm; December 3, 2009; 7:30pm
- Expires: May 3, 2011

Life Sciences Center (LSC) Zone - Revisions

Amends the Zoning Ordinance to revise the LSC Zone to permit mixed-use development under certain circumstances - [ZTA 09-07](#)

- Introduced July 28, 2009 by District Council at Request of the Planning Board
- PHED Worksession: October 26, 2009; 2:00pm; November 9, 2009; 2:00pm; November 12, 2009; 9:30am; January 26, 2010; 3:30pm; February 23, 2010; 2:00pm; March 10, 2010; 9:00am **NEW**

Commercial Residence (CR) Zones

Establish Commercial/Residential (CR) zones; and establishes the intent, allowed land uses, development methods, general requirements, development standards, density incentives and approval procedures under the Commercial/Residential zones - [ZTA 09-08](#)

- Introduced September 22, 2009 by District Council at Request of the Planning Board
- PHED Worksession: November 2, 2009; 2:00pm; November 12, 2009; 9:30am; November 17, 2009; 2:30pm; November 23, 2009; 2:00pm; January 11, 2010; 9:30am; January 25, 2010; 2:00pm; February 16, 2010; 9:30am; February 23, 2010; 2:30pm; March 2, 2010; 10:00am **NEW**
- Public Hearing: October 27, 2009; 7:30pm
- Committee recommends approval with amendments **NEW**

Subdivision Approval - Conflict Resolution

Resolves certain conflicts between departments and agencies concerning the conditions of the approval of a preliminary subdivision plan and generally revises the requirements for approval of a preliminary subdivision plan - [SRA 09-02](#)

- Introduced June 23, 2009 by Floreen
 - PHED Worksession: September 21, 2009; 2:00pm; October 13, 2009; 2:00pm
 - Public Hearing: July 28, 2009; 1:30pm
-

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
 - PHED Worksession: July 13, 2009; 2:00pm; September 14, 2009; 2:00pm
 - Public Hearing: June 9, 2009; 7:30pm
-

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; October 8, 2008; 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

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)

No pending legislation

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

Motor Vehicles and Traffic - Speed Monitoring Systems **NEW**

Expedited Act to authorize use of speed monitoring systems on certain highways under certain circumstances; and generally regulate the use of speed monitoring systems in the County - [Expedited Bill 07-10](#)

- Introduced March 2, 2010 by Council President Floreen at the request of the County Executive
- Public Hearing: March 23, 2010; 7:30pm
- Expires: September 2, 2011

Noise Control - Arts and Entertainment Activities **NEW**

Act to set different noise levels standards for certain arts and entertainment activities; exempt certain noise levels from being treated as a noise disturbance; require certain notices to be given to certain potential homebuyers near these activities; and generally amend the County noise control law - [Expedited Bill 06-10](#)

- Introduced March 2, 2010 by the Council President Floreen and Elrich
- Public Hearing: March 23, 2010; 7:30pm
- Expires: April 6, 2011

Forest Conversation - Enforcement

Amends the forest conservation law to modify number of required inspections and the notification period for inspections as well as amending the penalty and hearing procedures for the forest conservation law - [Bill 34-09](#)

- Introduced October 6, 2009 by the Council President Andrews at the request of the Planning Board
- Public Hearing: November 24, 2009; 1:30pm
- T&E Worksession: November 17, 2009; 7:30pm; November 30, 2009; 9:30am; January 14, 2010; 2:00pm
- Expires: April 6, 2011

Buildings - Permits and Inspections

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

- T&E Worksession: July 13, 2009; 2:00pm; September 14, 2009; 2:00pm
- Public Hearing: June 9, 2009; 7:30pm
- Expires: November 5, 2010

Enforcement of County Laws - Notice of Violation - Appeals

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 Council President Andrews at the request of the County Executive
- T&E Worksession: July 13, 2009; 2:00pm; September 14, 2009; 2:00pm
- Public Hearing: June 9, 2009; 7:30pm
- Expires: November 5, 2010

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 Floreen, Knapp, Elrich, Leventhal, and Council President Andrews
- T&E Worksession: April 27, 2009; 9:00am; May 8, 2009; 11:00am; June 15, 2009; 9:30am
- Public Hearing: May 5, 2009; 7:30pm
- Expires: October 14, 2010

**BUSINESS LEGISLATION ENACTED
SINCE MARCH 1, 2009
See Also Archives**

BILLS

Buildings - Energy Efficiency - Deferral

Defers the effective date for requiring that certain residential buildings meet certain Energy Star standards - [Expedited Bill 44-09](#)

- Enacted - LMC 2009 - Ch. 32

Property Tax Credit - Renewable Energy - Annual Aggregate Limit

Amends the annual aggregate limit for the property tax credit for solar and geothermal energy devices and energy conservation devices; and generally amends law relating to renewable energy property tax credit - [Bill 39-09](#)

- Enacted - LMC 2009 - Ch. 30

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](#)

- Enacted - LMC 2009 - Ch. 29

Unused Vehicles - Storage

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](#)

- Enacted - LMC 2009 - Ch. 25

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

ZONING TEXT AMENDMENTS/SUBDIVISION REGULATION AMENDMENTS

Hearing Examiner - Report Dissemination

Amends the dissemination requirements for reports and recommendations from the Hearing Examiner - [ZTA 09-14](#)

- Enacted - Ordinance No. 16-43

Rural Service (RS) Zone - Development Standards

Exempts pre-existing lots or parcels in the Rural Service zone from minimum footage requirements - [ZTA 09-12](#)

- Enacted - Ordinance No. 16-42

Burtonsville Overlay Zone - Allowed Uses

Amends the land uses allowed in the Overlay zone; and generally amends the Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan - [ZTA 09-05](#)

- Enacted - Ordinance No. 16-41

Sandy Spring/Ashton Overlay Zone - Prohibited Uses

Amends the prohibited land uses in the Sandy Spring/Ashton Rural Village Overlay Zone - [ZTA 09-01](#)

- Enacted - Ordinance No. 16-40

Town Sector (TS) Zone - Minimum Area

Allows, under certain circumstances, a reduction in the land area required for land currently zoned TS - [ZTA 09-06](#)

- Enacted - Ordinance No. 16-39

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](#)

- Enacted - Ordinance No. 16-37

SPECIAL NOTES

- Tax bills will be arriving July 1, 2010. In a declining real estate market, there may be opportunities to reduce property tax payments by seeking review of the assessed value. Contact GovernmentRelations@shulmanrogers.com for a no-fee discussion of property's assessed value and your options for appeal.
- The City of Rockville has proposed wide-ranging amendments to its building code, including a sweeping green building component. The City released the revised ordinance in January 2010 with a public hearing occurring on February 22, 2010, and public comment period expected to close on March 5, 2010.

Email GovernmentRelations@shulmanrogers.com to determine the impact this code may have on your building, project and possibly residential properties.

- Park and Planning has revised its Semi-Annual Report which continues to alter its Master Plan and Sector Plan schedules. Email GovernmentRelations@shulmanrogers.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 March 1, 2010. 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@shulmanrogers.com) or [Anne Marie Vassallo](mailto:Anne.Marie.Vassallo@shulmanrogers.com) at 301-230-5200 or send an email to us at GovernmentRelations@shulmanrogers.com

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
12505 Park Potomac Avenue · Sixth Floor
Potomac, MD 20854
301.230.5200

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