

Volume 3, Issue 5


  
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May 2010

**Montgomery  
County's  
Business Law  
Firm**

  
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G. Bernstein](#) or [Anne  
Marie Vassallo](#) at 301-  
230-5200 or send an  
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shulmanrogers.com](mailto: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 APRIL 2010 EDITION OF THE MONTGOMERY COUNTY BUSINESS LEGISLATIVE UPDATE:

- **EXPEDITED BILL 15-10** - TAXATION - FUEL-ENERGY TAX - RATE - INCREASES THE RATES OF THE FUEL-ENERGY TAX AND GENERALLY AMENDS COUNTY LAWS RELATED TO THE FUEL-ENERGY TAX
- **ZTA 10-04** - C-2 ZONE - AUTOMOBILE FILLING STATIONS - ALLOWS AUTOMOBILE FILLING STATIONS LOCATED IN A REGIONAL SHOPPING CENTER AS A PERMITTED USE IN THE C-2 ZONE

**PENDING BUSINESS  
LEGISLATION****Health & Human Services (HHS)***No pending legislation***Management & Fiscal Policy (MFP)****Taxation - Fuel-Energy Tax - Rate NEW**

**Montgomery County:**

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

Increases the rates of the fuel-energy tax and generally amends County laws related to the fuel-energy tax - [Expedited Bill 15-10](#)

- Introduced March 23, 2010 by Council President at the request of the County Executive
- MFP Worksession: April 21, 2010; 9:00am; April 29, 2010; 1:30pm; May 7, 2010; 9:00am
- Public Hearing: April 20, 2010; 7:00pm
- Expires: September 23, 2011

**Prince George's County:**

Anne Marie Vassallo  
 Larry Gordon  
 Larry Shulman

**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 July 23, 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

**Office Location:**

12505 Park Potomac Avenue  
 Sixth Floor  
 Potomac, MD 20854  
 301.230.5200

**Archives:**[Enacted Legislation](#)

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[Apr. 2010 - Vol. 3, Issue 4](#)

**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)

**C-2 Zone - Automobile Filling Stations NEW**

Allows automobile filling stations located in a regional shopping center as a permitted use in the C-2 Zone - [ZTA 10-04](#)

- Introduced March 16, 2010 by District Council at the request of the County Executive
- Public Hearing: May 20, 2010; 7:30pm

**Development, Coordination, Oversight**

Provides further coordination and oversight of master-planned development and development districts; and generally amends the law governing coordination of development - [Bill 1-10](#)

- Introduced January 19, 2010 By Trachtenberg and Knapp
- PHED Worksession: April 5, 2010; 2:00pm; April 22, 2010; 9:30am **NEW**
- Expires: July 19, 2011

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### Exemptions - Legal Dwellings

Provide an exemption from current zoning standards for certain unplatted parcels with legally constructed one-family detached dwelling units - [ZTA 10-03](#)

- Introduced March 16, 2010 By Knapp and Elrich
- PHED Worksession: April 22, 2010; 9:30am
- Public Hearing: April 20, 2010; 1:30pm
- Committee recommends approval with amendments

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### 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
- Worksession: May 6, 2010; 10:15am **NEW**
- Public Hearing: February 9, 2010; 1:30pm; March 16, 2010; 1:30pm

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### 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; April 22, 2010; 9:30am
- Public Hearing: January 12, 2010; 1:30pm
- Expires: August 2, 2011
- Committee recommends approval with amendments **NEW**

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### 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

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### **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

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### **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

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### **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

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### **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

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### **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

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### **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

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### **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

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### **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

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### **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
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### **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)

### Buildings - Energy Efficiency - Repeal

To repeal the requirement that certain residential buildings meet certain energy star standards; and generally amend law relating to buildings, energy and environmental policy - [Expedited Bill 10-10](#)

- Introduced March 23, 2010 by Council President Floreen at the request of the County Executive
- Worksession: April 28, 2010; 2:00pm
- Public Hearing: April 13, 2010; 1:30pm
- Expires: September 23, 2011
- Committee recommends approval **NEW**

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### Noise Control - Arts and Entertainment Activities

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: September 2, 2011

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### 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

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### **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

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### **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**

### **Finance - Public Facilities - Agricultural Easements**

Amends the definition of public facility to include the purchase of certain agricultural easements; and generally amend the county finance law - [Expedited Bill 08-10](#)

- Enacted 05/04/10 - Not yet signed into law

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

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 7-10](#)

- Enacted - LMC 2010 - Ch. 12

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### **Workforce Housing - Voluntary**

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

- Enacted - LMC 2010 - Ch. 11

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### **Economic Development - Biotechnology Credit - County Supplement**

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](#)

- Enacted - LMC 2010 - Ch. 9

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### **Forest Conservation - 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](#)

- Enacted - LMC 2010 - Ch. 6

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### **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](#)

- Enacted - LMC 2010 - Ch. 5

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### **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](#)

- Enacted - LMC 2010 - Ch. 4

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### **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

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### **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

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### **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

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### **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

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### **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**

### **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](#)

- Enacted - Ordinance No. 16-49
-

### **Planning Board Enforcement**

Amendment to revise provisions for violations, penalties and enforcement of a Planning Board action; and generally amend provisions related to violations of the Zoning Ordinance - [ZTA 09-09](#)

- Enacted - Ordinance No. 16-48
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### **Enforcement-Amendments**

Amendment to revise procedures to enforce a Planning Board action; and generally amend provisions for issuance, enforcement and appeals of Planning Board actions - [SRA 09-03](#)

- Enacted - Ordinance No. 16-47
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### **Workforce Housing - Voluntary**

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

- Enacted - Ordinance No. 16-46
- 

### **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](#)

- Enacted - Ordinance No. 16-45
- 

### **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](#)

- Enacted - Ordinance No. 16-44
- 

### **Hearing Examiner - Report Dissemination**

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

- Enacted - Ordinance No. 16-43

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### **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

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### **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

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### **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

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### **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

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### **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

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## **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](mailto:GovernmentRelations@shulmanrogers.com) for a no-fee discussion of property's assessed value and your options for appeal.
  - The City of Rockville adopted a broad-reaching new building code, amending Chapter 5 of the City Code and included new Green Building Regulations. The new code applies both to new construction and renovations and both to commercial and residential buildings. The ordinance is effective July 1 and can have significant impacts on your building and projects. Email [GovernmentRelations@shulmanrogers.com](mailto:GovernmentRelations@shulmanrogers.com) to determine how the new code impacts your building or renovation.
  - Park and Planning has revised its Semi-Annual Report which further alters its Master Plan and Sector Plan schedules. Email [GovernmentRelations@shulmanrogers.com](mailto: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 May 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](mailto:GovernmentRelations@shulmanrogers.com)

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