

Volume 3, Issue 6


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June 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

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HIGHLIGHTS

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

- **BILL 34-10 - FINANCE - PUBLIC FACILITIES - PRIVATE PROJECTS** - AMENDS DEFINITION OF PUBLIC FACILITIES TO EXCLUDE CONSTRUCTION, RECONSTRUCTION, EXTENSION, ACQUISITION, IMPROVEMENT, ENLARGEMENT, ALTERATION, REPAIR OR MODERNIZATION OF ANY PRIVATELY OWNED BUILDING OR FACILITY
- **ZTA 10-06 - SLOPING LOTS - APPLICABILITY** - AMENDS PROVISION CONCERNING SLOPING LOTS -
- **SRA 10-02 - MINOR SUBDIVISIONS - APPLICABILITY** - ALLOWS PARCEL OWNERS WITH CERTAIN LEGALLY SINGLE FAMILY DETACHED DWELLINGS TO USE THE MINOR SUBDIVISION PROCEDURES

**PENDING BUSINESS
LEGISLATION****Health & Human Services (HHS)***No pending legislation*

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Management & Fiscal Policy (MFP)

Finance - Public Facilities - Private Projects NEW

Amends definition of public facilities to exclude construction, reconstruction, extension, acquisition, improvement, enlargement, alteration, repair or modernization of any privately owned building or facility - [Bill 34-10](#)

- Introduced May 18, 2010 by Leventhal and Knapp
- PHED Worksession: July 12, 2010; 9:30am
- Public Hearing: June 22, 2010; 1:30pm

Taxation - Fuel-Energy Tax - Rate

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; May 17, 2010; 1:30pm NEW
- Public Hearing: April 20, 2010; 7:00pm
- Expires: September 23, 2011

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

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)

Sloping Lots - Applicability **NEW**

Amends provision concerning sloping lots - [ZTA 10-06](#)

- Introduced May 18, 2010 by PHED
- PHED Worksession: June 14, 2010; 9:30am
- Public Hearing: June 22, 2010; 1:30pm

Minor Subdivisions - Applicability **NEW**

Allows parcel owners with certain legally single family detached dwellings to use the minor subdivision procedures - [SRA 10-02](#)

- Introduced May 18, 2010 by Elrich
- PHED Worksession: June 14, 2010; 9:30am
- Public Hearing: June 22, 2010; 1:30pm

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 - [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

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

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

Amends 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

Amends or revises 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

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)

Buildings - Energy Efficiency - Repeal

Repeals 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; May 4, 2010; 10:45am; May 18, 2010; 10:20am **NEW**
- Public Hearing: April 13, 2010; 1:30pm
- Expires: September 23, 2011
- Committee recommends approval

Noise Control - Arts and Entertainment Activities

Sets 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

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

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

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

Workforce Housing - Voluntary

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

- Enacted - LMC 2010 - Ch. 11

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

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](#)

- Enacted - LMC 2010 - Ch. 6

ZONING TEXT AMENDMENTS/SUBDIVISION REGULATION AMENDMENTS

Residential Townhouse (RT) Zones - Existing Dwellings

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

- Enacted - Ordinance No. 16-52

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](#)

- Enacted - Ordinance No. 16-51

Residential Zones - Agricultural Vending

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

- Enacted - Ordinance No. 16-50
-

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
-

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
-

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
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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 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 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 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, 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

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