

Ordinance No.: 20-07  
Zoning Text Amendment No.: 23-07  
Concerning: Bethesda (B) Overlay  
Zone Park Improvement  
Payments and Downtown  
Silver Spring (DSS)  
Overlay Zone Civic  
[[Improvement]] Impact  
Funds  
Revised: 12/11/2023 Draft No.: 3  
Introduced: October 24, 2023  
Public Hearing: November 28, 2023  
Adopted: January 16, 2024  
Effective: February 5, 2024

**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: Then Council President Glass at the request of the Planning Board

---

**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- (1) modify the method used to calculate the biennial adjustments and set an inflation limit for the Bethesda Overlay Zone’s Park [[Improvement]] Impact Payment and the Downtown Silver Spring Overlay Zone’s Civic Improvement Fund; and
- (2) generally amend the density provisions of the Bethesda Overlay Zone and the Downtown Silver Spring Overlay Zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 4.9.	“Overlay Zones”
Section 4.9.2.	“Bethesda (B) Overlay Zone”
Section 4.9.8.	“Downtown Silver Spring (DSS) Overlay Zone”

**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:*

**Sec. 1. DIVISION 59-4.9 is amended as follows:**

**Division 4.9. Overlay Zones**

\* \* \*

**Section 4.9.2. Bethesda (B) Overlay Zone**

\* \* \*

**C. Development Standards**

\* \* \*

**2. Density**

\* \* \*

b. BOZ Density means the total square footage of gross floor area by which new development in the Bethesda Downtown Plan Area may cumulatively exceed the maximum square footage of gross floor area allowed under the mapped CR and CRT zones. BOZ Density is determined by subtracting the gross floor area of existing and approved development from 32.4 million (the total gross floor area recommended by the Bethesda Downtown Plan). The Planning Board must periodically publish the gross floor area remaining in BOZ Density.

\* \* \*

**ii. Qualification**

To qualify for BOZ Density, a proposed development must:

- A. use all gross floor area allowed by the mapped CR or CRT FAR and may not transfer BOZ Density to any other property[.]; and
- B. except as provided under Subsection 3 concerning MPDUs, make a Park Impact Payment before the issuance of any building permit application at a rate

28 of \$10 per square foot of approved BOZ Density  
 29 gross floor area. The Planning Board, after  
 30 advertising and holding a public hearing, must  
 31 adjust this payment rate on July 1 of each odd-  
 32 numbered year by the [annual average] cumulative  
 33 increase or decrease in a published construction cost  
 34 index [for] over the prior two [most recent] calendar  
 35 years. The Planning Board must cap the biennial  
 36 Park Impact Payment rate adjustment not to exceed  
 37 20%. If the biennial tax rate adjustment exceeds  
 38 20%, the excess dollar amount must be carried over  
 39 and added to the Park Impact Payment rate before  
 40 calculating the next adjustment. If this total  
 41 adjustment, including any carried over value, again  
 42 exceeds 20%, the excess dollar amount must be  
 43 carried over and added to the rate before calculating  
 44 the next biennial adjustment. If a property owner  
 45 dedicates land designated in the master plan as a  
 46 recommended open space to the M-NCPPC Parks  
 47 Department, the Planning Board may reduce the  
 48 amount of square footage for which a Park Impact  
 49 Payment must be made.

50 \* \* \*

51 **Section 4.9.8. Downtown Silver Spring (DSS) Overlay Zone**

52 \* \* \*

53 **C. Development Standards**

54 \* \* \*

55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81

**2. Density**

\* \* \*

**e. Qualification**

To qualify for DSS Density, a proposed development must:

- i. Make a contribution to the Civic Improvement Fund before the issuance of any building permit at a rate of \$5 per square foot of approved residential DSS Density gross floor area and at a rate of \$3 per square foot of approved non-residential DSS Density gross floor area.
- ii. The Planning Board, after advertising and holding a public hearing, must adjust this payment rate by July 1 of each even-numbered year by the [annual average] cumulative increase or decrease in a published construction cost index [for] over the prior two [most recent] calendar years. The Planning Board must cap the biennial Civic Improvement Fund rate adjustment not to exceed 20%. If the biennial tax rate adjustment exceeds 20%, the excess dollar amount must be carried over and added to the Civic Improvement Fund rate before calculating the next adjustment. If this total adjustment, including any carried over value, again exceeds 20%, the excess dollar amount must be carried over and added to the rate before calculating the next biennial adjustment.

\* \* \*

**Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of District Council adoption.

This is a correct copy of Council action.

A handwritten signature in black ink, appearing to read "Sara", written over a horizontal line.

Sara R. Tenenbaum  
Clerk of the Council