



**ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR**

To: Councilmembers, Anne Arundel County Council
From: Michelle Bohlayer, County Auditor
Date: April 11, 2024
Subject: Auditor's Review of Legislation for the April 15, 2024 Council Meeting

**Bill 6-24: General
Development Plan –
Region 2 Plan (As
Amended)**

Summary of Legislation

The purpose of this bill is to adopt the Anne Arundel County Region 2 Plan, the region plan for Region Planning Area No. 2 (Area 2), dated January 26, 2024; amend the County's General Development Plan (Plan2040); and require the Anne Arundel County Region 2 Plan to be kept in specified files.

We commented on this bill in our letters dated February 29, 2024, March 15, 2024, and March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to:

- clarify the Stakeholder Advisory Committee recommendation to maintain adopted zoning, change the planned land use to reflect current uses, and maintain the Transit-Oriented Development Policy Area for the properties closest to the Dorsey Maryland Rail Commuter Station;
 - add three properties identified as Tax Map 13, Parcels 158, 174, and a portion of 181 that were not correctly identified as being part of the National Business Park on the Special Districts and Economic Centers map;
 - add two properties, identified as Tax Map 13, Parcels 158 and 174, that are part of the National Business Park to the Critical Economic Area;
 - change the planned land use for the property known as Parcel 49 on Tax Map 13, located on 7960 Clark Road, Jessup, from Commercial to Mixed Use and adds the property to the Mixed Use Development Policy Area overlay;
 - change the planned land use for a portion of the properties known as Parcels 88 and 200 on Tax Map 19, located on
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Bill 6-24 (continued)

Laurel Fort Meade Road, Laurel, from Open Space to Commercial; and

- change the planned land use of a portion of the property known as Parcel 86, Lot 1 on Tax Map 19, located at 3600 Laurel Fort Meade Road, Laurel, also known as the Laurel Racetrack, from Conservation to Mixed-Use.

We have no further comments on this bill.

**Bill 7-24:
Comprehensive Zoning
– Region 2 (As
Amended)**

Summary of Legislation

This bill repeals portions of the Digital Zoning Layer dated February 22, 2011 for Area 2; adopts the Digital Zoning Layer dated January 26, 2024 for Area 2; and requires specified offices to keep certified copies of the Digital Zoning Layer dated January 26, 2024 for Area 2.

We commented on this bill in our letters dated February 29, 2024, March 15, 2024, and March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to:

- change the zoning for the property known as Parcel 49 on Tax Map 13, located on 7960 Clark Road, Jessup, from C2-Commercial Office to Mixed Use-Employment;
- change the zoning for a portion of the properties known as Parcels 88 and 200 on Tax Map 19, located on Laurel Fort Meade Road, Laurel, from Open Space to C4-Commercial; and
- change the zoning for a portion of the property known as Parcel 86, Lot 1 on Tax Map 19, located at 3600 Laurel Fort Meade Road, Laurel, also known as the Laurel Racetrack, from Open Space to W1-Industrial Park.

We have no further comments on this bill.

**Bill 8-24: General
Development Plan –
Region 7 Plan (As
Amended) (Hearing
Concluded) (Eligible for
Vote)**

Summary of Legislation

The purpose of this bill is to adopt the Anne Arundel County Region 7 Plan, the region plan for Region Planning Area No. 7 (Area 7), dated January 5, 2024; amend Plan2040; and require the Anne Arundel County Region 7 Plan to be kept in specified files.

We commented on this bill in our letters dated February 29, 2024, March 15, 2024, and March 29, 2024. At the April 1, 2024 Council meeting, this bill was held until the April 15, 2024 Council meeting. We have no further comments on this bill.

**Bill 9-24:
Comprehensive Zoning
– Region 7 (As
Amended)**

Summary of Legislation

This bill repeals portions of the Digital Zoning Layer dated May 16, 2011 for Area 7; adopts the Digital Zoning Layer dated January 5, 2024 for Area 7; and requires specified offices to keep certified copies of the Digital Zoning Layer dated January 5, 2024 for Area 7.

We commented on this bill in our letters dated February 29, 2024, March 15, 2024, and March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to change the zoning of the property know as Parcel 0063 on Tax Map 051A, located at 134 Old Solomons Island Road, Annapolis, from Town Center to C4-Highway Commercial. We have no further comments on this bill.

**Bill 16-24: Zoning – Uses
– Food Service Facilities
– Outdoor Seating
Related to Food and
Beverage Service (As
Amended)**

Summary of Legislation

In response to the COVID-19 pandemic, the County authorized restaurants to operate outdoor seating as a temporary use without requiring specified approval. This temporary authority was given to certain restaurants that were in operation as of May 20, 2021 and it currently expires June 1, 2024. This bill permanently authorizes specified restaurants that were in operation as of May 20, 2021 to offer outside seating if they submit a specified application that is approved by the Planning and Zoning Officer. A list of the restaurants that have been authorized was requested, but the Administration was not able to report the number of restaurants operating outdoor seating with the temporary authority.

We commented on this bill in our letter dated March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to prohibit the continued use of outdoor seating at food service facilities that are less than 100 feet from residentially zoned properties. We have no further comments on this bill.

**Bill 17-24: Zoning –
Adult Independent
Dwelling Units (As
Amended)**

Summary of Legislation

This bill modifies the definition of an adult independent dwelling unit (AIDU); modifies residential zoning district uses for AIDUs, multifamily dwellings, and townhouse dwellings; and establishes and modifies conditional use requirements and bulk regulations for multifamily and townhouse dwellings in specified residential zoning districts. This bill authorizes multifamily dwellings in R1, R2, and R5 residential zoning districts only if they are AIDUs and specifies related requirements. This bill also authorizes townhouses in R1 and R2 residential zoning districts only if they are AIDUs and specifies related requirements. The Office of

Bill 17-24 (continued)

Planning Zoning (OPZ) advises this bill impacts at least one pending subdivision plan.

We commented on this bill in our letter dated March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to provide for a 50-foot setback for certain townhouse structures adjacent to a lot in the same zoning district. We have no further comments on this bill.

**Bill 20-24: Zoning –
Mixed Use Districts –
Requirements for
Conditional Uses –
BWI/Fort Meade
Growth Area –
Multifamily Residential
Uses (As Amended)**

Summary of Legislation

This bill permits multifamily dwellings in place of nonresidential uses on certain sites in the BWI/Fort Meade Growth Area (Area) located in a C3 or mixed-use zoning district under certain conditions. This bill also establishes new conditional use requirements for multifamily dwellings in a C3 commercial or mixed-use zoning districts located in the Area. This bill impacts an estimated 6,260 acres in the Area.

We commented on this bill in our letter dated March 29, 2024. At the April 1, 2024 Council meeting, this bill was amended to clarify that the density for additional multifamily dwellings in certain circumstances is limited to 44 dwelling units per acre for the site. We have no further comments on this bill.

**Bill 21-24: General
Provisions – Equity and
Human Rights – Boards,
Commissions, and
Similar Bodies – Human
Relations Commission**

Summary of Legislation

This bill expands the scope of County anti-discrimination protections beyond housing to include public accommodations and non-County government employment; expands the powers of the Human Relations Commission to, among other things, address complaints of discrimination in employment and public accommodation; expands the powers and duties of the Human Relations Officer, including to investigate discrimination complaints; requires annual reports; establishes procedures for addressing discrimination complaints filed with the Human Relations Commission; and modifies civil penalties for discrimination violations. While this bill authorizes enforcement of subpoenas sought by the Human Relations Commission, this authority is contingent upon the enactment of State House Bill 1093/Senate Bill 1038 of 2024, which were passed by the Maryland General Assembly and would take effect upon signature by the Governor.

A summary of these changes is provided in **Appendix 1**.

Bill 21-24 (continued)**Review of Fiscal Impact**

This bill will increase the workload for the Human Relations Commission and the Office of Equity and Human Rights because this bill adds two new categories of complaints that may be submitted by the public for investigation; however, the amount of that impact will depend upon the number and types of complaints received and the action required based on those complaints. The Administration advises additional positions will likely be sought over the next four fiscal years due to outreach activities and the anticipated increase in complaints.

This bill may result in additional fines being charged; however, the amount will be dependent on the number of violations.

Bill 22-24: Subdivision and Development – Adequate School Facilities – School Utilization Chart**Summary of Legislation**

This bill approves the School Utilization Chart, 2024. This proposed school utilization chart does not reflect a recently approved redistricting plan. The Council last approved the school utilization chart in Bill 90-22, which is the basis for the comparisons below.

The School Utilization Chart, 2024 includes 111 schools, which reflects the addition of Two Rivers Elementary and Severn Run High School since the last school utilization chart was approved.

This bill opens 11 schools that were closed in 2023: Bodkin Elementary, Broadneck Elementary, Crofton Woods Elementary, Eastport Elementary, Four Seasons Elementary, Marley Elementary, Nantucket Elementary, Odenton Elementary, Solley Elementary, Old Mill Middle North, and Meade High School.

This bill closes two schools that are currently open: Highpoint Elementary and Glen Burnie High School.

Review of Fiscal Impact

While there is no direct fiscal impact of this legislation, it could allow or limit future development within the related feeder systems, which may have a future fiscal impact.

**Bill 23-24: Pensions –
Inter-plan Transfers –
Deputy Police Chief**

Summary of Legislation

This bill authorizes one Deputy Police Chief to transfer pension credit currently being accrued in the Employees Retirement Plan (ERP) to the Police Service Retirement Plan (PSRP) and receive a benefit allowance as a participant of the PSRP upon termination from employment. This bill expires January 1, 2025.

The Pension Oversight Commission reviewed this bill in accordance with the County Code and stated its opposition to the bill.

Review of Fiscal Impact

If the Deputy Police Chief that meets the requirements of this bill elects to retire prior to January 2025 and transfer their ERP pension credit to the PSRP, this bill will increase the participant's retirement allowance for this period of reemployment by an estimated \$9,100 annually for the lifetime of the member and a surviving spouse.

The PSRP requires employee contributions of 7.25% and the ERP requires employee contributions of 4%. County Code § 5-1-202(f) requires that for inter-plan transfers, a participant is not entitled to receive, or required to make, a payment adjustment for the difference in employee contribution rates between the two plans for the period of participation prior to the transfer. The Deputy Police Chief would not be required to provide any additional contributions based on this change but would be eligible for the increased benefits. Had the Deputy Police Chief elected the PSRP upon appointment, they would have been required to pay the higher mandatory employee contribution rate for the entire period of reemployment.

If the Deputy Police Chief elects to change from the ERP to the PSRP, it will result in higher employer costs and may impact the PSRP's overall funding. While an actuarial calculation of assets of this employee's benefits from ERP to PSRP is not available, using the increase in the annual employer cost to fund the additional PSRP benefit (\$344,900) and the unpaid employee contribution deficiency (\$64,300) provided by the Office of Personnel, the County would be required to absorb an estimated additional \$409,200 in pension costs upon transfer of assets. The total fiscal impact will depend on the actuarial value of the employee's assets with the ERP plan upon the date of transfers to the PSRP.

The Office of Personnel does not anticipate a significant change in workload from this bill, and no additional resources are anticipated to be required.

**Bill 26-24: Zoning –
Amendments to
Comprehensive Zoning
Ordinance – Notice**

Summary of Legislation

This emergency bill reduces the number of days before which certain amendments to comprehensive zoning ordinances may be considered by Council after meeting public notice requirements from 14 days to 7 days. This bill also exempts amendments to comprehensive zoning ordinances that retain current zoning from signage and other public notice requirements.

Review of Fiscal Impact

OPZ anticipates a decrease in signage purchase costs due to this bill. OPZ spent \$3,200 for 200 signs for comprehensive zoning amendments associated with three regions and they expect that they would have only needed 100 signs, for a total cost of \$1,600, if this bill had been in place. For Regions 2 and 7, there were 41 signs that were posted and if this bill had been in place, only 17 signs would have been required.

**Resolution 13-24:
Confirming
Appointments of
Residents to Serve on
the Pension Oversight
Commission**

Summary of Legislation

This resolution confirms the appointment of Adam J. Hertz and the reappointment of Edward W. Gosselin and Mark T. Humphries to serve as County resident members of the Pension Oversight Commission for terms expiring on January 31, 2028.

We were able to verify that these appointees are residents of Anne Arundel County, do not participate in any retirement plan that the Pension Oversight Commission oversees, and their resumes indicate that they have relevant experience. Based on our review of various resources, there is no evidence that these three appointees are elected or appointed within the State of Maryland.

Review of Fiscal Impact

This resolution has no fiscal impact.

**Resolution 14-24:
Confirming
Appointments of
Members of the
Classified Service to
Serve on the Pension
Oversight Commission**

Summary of Legislation

This resolution approves the appointment of classified service members Vincent Carbonaro and Nicole Clinton to serve on the Pension Oversight Commission for terms expiring on January 31, 2028.

We were able to verify with the Office of Personnel that these employees meet the requirements for the classified service appointees as noted in the resolution.

The Code requires that classified service members be selected from a list of names nominated by secret ballot; however, the Administration advises that a secret ballot was not used because these were the only qualified candidates nominated for the vacancies.

Review of Fiscal Impact

This resolution has no fiscal impact.

Anne Arundel County Office of the County Auditor

Bill 21-24: General Provisions – Equity and Human Rights – Boards, Commissions, and Similar Bodies – Human Relations Commission

Appendix 1

Topic	Section	Bill Provision	Change from Current Law
Subpoena Power	1-2-101(d)	Specifies processes for enforcing subpoenas. The Human Relations Commission (Commission) may apply to a circuit court for a court order. The court order shall be served by the Sheriff or Deputy Sheriff. Failure to obey the court order may constitute contempt of court.	Replaces “the individual authorizing the issuance of the subpoena” with “the Commission.” Current law provides that in the event of failure to appear, the Clerk of the Circuit Court is to issue a body attachment directed to the Sheriff against the person named.
Protected Classes	1-9-101	Modifies definition of protected class to include discrimination that is based on specified actual or perceived traits.	Protected classes are age, ancestry, citizenship, color, creed, disability, familial status, gender identity or expression, marital status, national origin, occupation, race, religion, sex, sexual orientation, or source of income.
Definitions	1-9-101	Modifies definition of discriminate to include, among other things, specified retaliation. Defines gender identity or expression. Removes the definition of sexual orientation.	The definition of discriminate was limited to a person adversely affected in the area of housing.
Public Policy and Purpose	1-9-102	States the purpose of Title 9 is to foster equal opportunity for all and clarifies that a complaint filed under Title 9 will not proceed if it is duplicative or cumulative of a complaint filed under similar state or federal law.	Purpose of current law is to eliminate discrimination in housing.
Discrimination in Public Accommodations	1-9-301	Public accommodations may not discriminate.	New provision.
Discrimination in Employment	1-9-401	Prohibits discrimination in compensation; terms, conditions, or privileges of employment; or classification due to membership in a protected class. Employers may not request or require genetic tests as a condition of employment or	New provision.

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Bill 21-24: General Provisions – Equity and Human Rights – Boards, Commissions, and Similar Bodies – Human Relations Commission

Appendix 1

Topic	Section	Bill Provision	Change from Current Law
		benefits. Employers may not discriminate on the basis of refusal to submit to genetic testing. Employers may not refuse to make reasonable accommodations for employees or applicants with disabilities. Employers may not engage in harassment of an employee based on membership in a protected class. Section does not apply to County employees.	
Human Relations Commission Composition	3-5A-103	Exempts the Executive Director of Arundel Community Development Services (or designee) from the requirement to be a resident of the County, and appointed by the Council. Specifies that the Director of the Office of Equity and Human Rights serves as the Human Relations Officer and the Secretary to the Commission.	Residency and confirmation requirements currently apply to all Commission members. Currently, the County Executive designates a County employee as Human Relations Officer. The Human Relations Officer serves as a non-voting, ex-officio member of the Commission.
Powers of Commission	3-5A-108	Expands the Commission’s powers to include broader equity and human rights discrimination of Title 9 of Article 1 and conducting training and other specified programs.	Current law limits Commission to initiating and investigating discrimination on housing, and conducting educational programs.
Powers and Duties of Human Relations Officer	3-5A-109	Authorizes the Human Relations Officer to investigate internal complaints of discrimination by County employees and other complaints of discrimination; access internal County records; and test any facility or organization for compliance.	New provision.
Reports	3-5A-110	Requires the Commission to report annually by October 1 to the County Executive and Council and authorizes interim reports.	New provision.
Complaints	3-5A-203	Complaints must be filed within 300 days after the alleged violation occurs, or 6 months after the complainant discovers the alleged violation.	The current time frame is 6 months.

Anne Arundel County Office of the County Auditor

Bill 21-24: General Provisions – Equity and Human Rights – Boards, Commissions, and Similar Bodies – Human Relations Commission

Appendix 1

Topic	Section	Bill Provision	Change from Current Law
		Within 30 days after being served with a complaint, the respondent may file an answer with the Commission, and must serve a copy of the answer on the complainant. Clarifies complaints filed with state or federal agencies preempt the same complaint filed with the County.	
Initial Review	3-5A-204	Authorizes the Office of Equity and Human Rights to assist the Human Relations Officer with complaints and requires an initial review to be completed within 14 days.	The time frame for completing initial review of complaints is currently 30 days.
Investigation	3-5A-206	Authorizes the Human Relations Officer to investigate complaints. Requires the Human Relations Officer to present findings, conclusions, and recommendations to the Commission within 90 days after the filing of the complaint, with 60 additional days provided if the Commission is notified.	New provision.
Rules of Procedure	3-5A-207	Requires Commission hearings to be conducted according to rules of procedure that are posted to a website.	New provision.
Decisions	3-5A-208	Upon finding discrimination, the Commission is authorized to issue a cease-and-desist order; assess a civil fine up to \$5,000 per offense for specified employment and public accommodation violations; and to assess civil fines of up to \$10,000 for a first offense, \$25,000 for a second offense, and \$50,000 for a third or subsequent offense for specified housing violations.	Current fine for housing discrimination is up to \$10,000 per violation (class A civil offense).