



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

**To:** Councilmembers, Anne Arundel County Council  
**From:** Michelle Bohlayer, County Auditor  
**Date:** November 2, 2023  
**Subject:** Auditor's Review of Legislation for the November 6, 2023 Council Meeting

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**Bill 69-23:  
Zoning – General  
Provisions – Amendments  
to Comprehensive Zoning  
Ordinance (As Amended)**

**Summary of Legislation**

This bill implements a 2018 Charter Amendment by establishing a process for posting specified outdoor notice signs prior to introduction of an amendment to a comprehensive zoning ordinance not requested by application or proposed by the Office of Planning and Zoning (OPZ).

We commented on this bill in our letters dated September 28, 2023 and October 12, 2023. At the October 16, 2023 Council meeting, this bill was amended to provide that the requirement to post signs and notice on the Council website of the proposed zoning change must occur at least 14 days before the amendment to the comprehensive zoning ordinance may be considered. We have no further comments on this bill.

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**Bill 73-23:  
Subdivision and  
Development – Site  
Development –  
Exemptions –  
Improvements to Existing  
Structures – Cumulative  
Floor Area and  
Impervious Surface (As  
Amended)**

**Summary of Legislation**

This bill increases the maximum amount of floor area or impervious surface from 1,000 to 4,000 square feet to be exempt from the site development plan approval process. Proposed site developments above the maximum require review and approval of a preliminary plan and a subsequent final site development plan. Proposed site developments below the maximum require an exemption application that follows a separate process for an administrative decision for the exemption request.

We commented on this bill in our letters dated September 28, 2023 and October 12, 2023. At the October 16, 2023 Council meeting, this bill was amended to limit an impervious surface management requirement and set forth an order of priority. We have no further comments on this bill.

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**Bill 76-23:  
Construction and Property  
Maintenance Codes  
Supplement – Building  
Permit Exemptions –  
Detached Accessory  
Structures (Hearing  
Concluded) (Vote Held)**

**Summary of Legislation**

This bill exempts gazebos, pavilions, and pergolas from building permit requirements if they do not exceed a specified height and floor area, and are accessory to a residential structure. This bill also adds a height limitation to the building permit exemption for detached accessory structures that are accessory to nonresidential structures. One-story detached accessory structures meeting specified floor area are currently exempt from building permit requirements but with this bill, the detached accessory structures that are accessory to nonresidential structures will be limited to unoccupied storage sheds and also subject to a height limitation. Also, this bill exempts specified decks from building permit requirements. All three of these provisions specify that permits are required for accessory structures or decks located on waterfront property.

We commented on this bill in our letter dated October 12, 2023. At the October 16, 2023 Council meeting, this bill was held until the November 6, 2023 Council meeting. We have no further comments on this bill.

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**Bill 77-23:  
Zoning – Residential and  
Industrial Districts –  
Conditional and Special  
Exception Uses – Natural  
Wood Waste Recycling  
Facilities (As Amended)**

**Summary of Legislation**

This bill authorizes natural wood waste recycling facilities (NWWRFs) as a conditional use in R1 residential zoning districts and authorizes the relocation or expansion of a NWWRF as a conditional use in a W2 industrial zoning district. Also, this bill establishes conditional use requirements for NWWRFs and eliminates special exception requirements for certain NWWRFs. There are currently two NWWRFs in the County.

We commented on this bill in our letter dated October 12, 2023. At the October 16, 2023 Council meeting, this bill was amended to add a conditional use requirement that a NWWRF be operated by an entity that was operating a NWWRF on the effective date of the bill. We have no further comments on this bill.

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**Bill 78-23:  
Finance, Taxation, and  
Budget – Subdivision and  
Development – Zoning –  
Essential Worker Housing  
Access Act of 2023**

**Summary of Legislation**

This bill establishes a Moderately Priced Dwelling Unit (MPDU) program administered by a community service entity with a specified County operating agreement. Per the Office of Law, the legislative intent is that Arundel Community Development Services, Inc. (ACDS) will be the Administrator of the MPDU program; however, ACDS is not designated in the bill and there is no requirement for the Council to approve the Administrator. This MPDU program will require development of MPDUs as part of residential development projects. The bill applies to development applications for ten or more dwelling units, as required, or nine or less dwelling units that voluntarily participate. This bill exempts certain developments from MPDU requirements, including workforce housing and housing for elderly of moderate means. Eligibility to buy or rent MPDUs is based on factors such as household income, residency, and/or proof of employment in the County. Certain residential developments started on or before July 1, 2024 are exempt from the bill, and the bill takes effect July 1, 2024.

The bill provides three main incentives for the development of MPDUs: (1) A 50% reduction to Capital Facility Connection Charges (CFCC) for water and sewer, (2) Density bonuses of 10% above the maximum permitted for sale units and 15% above the maximum permitted for rental units, and (3) An exemption from development impact fees.

This bill establishes development conditions, requirements, and agreements for building MPDUs as well as MPDU development requirements for sketch, final, and site development plans. Price and occupancy control periods are established for a period of 20 years for ownership and 40 years for rental units. The Planning and Zoning Officer is authorized, when there are exceptional circumstances as determined at the discretion of the Planning and Zoning Officer, to permit certain development applicants to make a contribution to the Housing Trust Special Revenue Fund in lieu of developing MPDUs. The bill specifies procedures for calculating this contribution amount.

The bill also establishes requirements and procedures associated with the administration of the MPDU program. This includes that the Administrator is authorized to, among other things, formulate and approve the MPDU worksheet required with the sketch plan application, provide guidance for interior amenity levels, determine eligibility, adjust income levels for eligibility in certain circumstances, set the initial sales prices, reduce the sales prices in certain circumstances, set the rental rates, receive rental agreements from landlords, and determine reasonable expenses of foreclosures. This bill includes requirements for the sale, resale, foreclosure, and rental of MPDUs. If no eligible households purchase a MPDU, ACDS and the Housing Commission of Anne Arundel County must be given the option to purchase the property prior to making it available to non-eligible applicants. If a MPDU is offered for resale during the control period, ACDS and the Housing Commission of Anne Arundel County

must be given the option to purchase the property prior to making it available for eligible applicants.

### **Review of Fiscal Impact**

The bill's fiscal impact is largely based on the estimated number of new MPDUs annually. The Administration's fiscal note estimated 221 new MPDUs annually, but the Administration subsequently revised the estimate to 197 new MPDUs annually. This estimate uses the average number of units for projects over 10 units in size over the last five years (i.e., an average of 1573 units per year per OPZ) multiplied by 12.5%, which is the average of the 10% requirement for ownership units and 15% requirement for rental units.

The Administration's fiscal note indicates that this bill decreases annual County revenue by \$5.5 million (\$2.3 million in CFCC and \$3.2 million in impact fee revenues). Based on the revised estimate of annual MPDUs, the bill as proposed would decrease annual County revenue by an estimated \$4.9 million (\$2.0 million in CCFC and \$2.9 million in impact fee revenues). These estimates use current rates and assume all MPDU properties are 1,500-1,999 square feet in size; however, the actual revenue loss will be determined based on the size and number of units that are developed. According to the Federal Reserve Economic Data database, the median home size in Anne Arundel County over the last five years has ranged from 1,830 to 2,268 square feet.

The 50% reduction to the CFCC will reduce revenue collected by the County for the Water and Wastewater Sinking Fund (Fund) by approximately \$2.0 million. Any decrease in revenue to the Fund may require future rate increases to support the Fund. The Administration's fiscal note indicates they may increase the CFCC rate, which would apply to future development applications, and/or the Environmental Protection Fee, which would apply to all usage for both water and wastewater service.

There are provisions in this bill that are new to the County and no estimates on the potential impact were provided by the Administration. This includes the potential impact of the density bonus, fee in lieu payments, and certain foreclosure-related payments.

The Administration's fiscal note indicates that this bill increases ACDS annual expenditures by \$290,000 for two new positions and a portion of three existing positions. ACDS will include County funding to support these estimated personnel costs in their fiscal year 2025 budget request. It is not anticipated that other grant funding will be available for these MPDU program personnel costs.

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**Resolution 40-23:  
Approving the Application  
to the United States  
Department of Justice for  
a Grant Under the  
Edward Byrne Memorial  
Justice Assistance Grant  
Program Federal Fiscal  
Year 2023 Local  
Solicitation**

**Summary of Legislation**

This resolution approves the County’s application to the Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year 2023 (FY23) Local Solicitation through the United States Department of Justice, Office of Justice Programs. This grant application requires that it be made available for review by the governing body of the applicant jurisdiction.

**Review of Fiscal Impact**

This resolution approves the application for this grant in the amount of \$160,297 for the federal FY23 (October 2022 through September 2023) grant to be received in the County’s fiscal year 2024 (FY24) budget. The Circuit Court’s portion of this grant (\$4,874) was included in the FY24 Approved Budget. However, the Department of Health (\$34,030); Partnership for Children, Youth, and Families (\$60,768); Office of the Sheriff (\$8,219); and Office of the State’s Attorney (\$52,385) portions of this grant were not included in the County’s FY24 Approved Budget. A supplementary appropriation will be required if awarded. This grant does not require any matching County funds.

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**Resolution 45-23:  
Approving the Application  
of Land Preserve, LLC to  
Sell an Agricultural Land  
Preservation Easement to  
the Maryland Agricultural  
Land Preservation  
Foundation in  
Davidsonville**

**Summary of Legislation**

This resolution approves Land Preserve, LLC’s application to sell an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation (MALPF). State law requires the County’s Agricultural Preservation Advisory Board (Board) to review MALPF applications, rank them based on locally established priorities adopted by MALPF, and make recommendations for approval to the local governing body. Additionally, state law requires the planning and zoning body (OPZ) to review the applications to determine whether the purchase is compatible with existing and approved County plans and overall County policy, and make recommendations for approval to the local governing body. Both the Board and the Planning and Zoning Officer have complied with these provisions of state law and recommend that the Council approve this application.

The total FY24 state appropriation for MALPF is \$94,697,833. The County’s share of FY24 MALPF funding will be determined in February 2024. These funds are provided with no matching requirement.

Any state funding initially allocated and not utilized by other counties in the first round is reallocated to the remaining counties with a matching requirement of 40%. If state funding is not sufficient to cover its share of the offer price, the County is allowed to provide additional funding, but it is not required. OPZ does not expect County matching funds to be needed for this easement. According to MALPF, the application was reviewed and found to be complete and the owners

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**Resolution 45-23  
(continued)**

have been informed that the application was deemed sufficient. The application was then sent to the Maryland Department of General Services for appraisal, which is still in progress. Upon receiving appraisal information, MALPF will establish an agricultural and easement value and make an offer to property owners.

**Review of Fiscal Impact**

OPZ estimates that state funds allocated for easements in Anne Arundel County will be sufficient for this application and that no County funds will be required.

While County funding of this easement is not anticipated, as of October 31, 2023, the County Agricultural Easement Program Capital Project (C443400) had approximately \$3.98 million available and only one pending program expenditure of \$500,000.

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**Resolution 47-23:  
Appointing a Member to  
the County Ethics  
Commission**

**Summary of Legislation**

This resolution confirms the appointment of Brian M. Conrad to serve on the Anne Arundel County Ethics Commission for the remainder of a term expiring on April 30, 2025.

**Review of Fiscal Impact**

This resolution has no fiscal impact.

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