

Introduced 7/8/16  
Public hearing 7/18/16  
Council action 11/9/16  
Executive action \_\_\_\_\_  
Effective date \_\_\_\_\_

## County Council of Howard County, Maryland

2016 Legislative Session

Legislative day # 7

**BILL NO. 44 - 2016 (ZRA - 162)**

**Introduced by**

**Jennifer Terrasa**

**AN ACT** amending the Howard County Zoning Regulations' New Town (NT) District Downtown Revitalization regulations to include a 15 percent Affordable Housing Inclusionary Zoning provision for Downtown Columbia, under certain conditions; and generally relating to the NT District.

Introduced and read first time July 8, 2016. Ordered posted and hearing scheduled.

By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

Having been posted & notice of time & place of hearing and title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on July 18, 2016.

By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

Tabled 7/29/16  
Extended & tabled 9/16/16  
Extended & tabled 10/15/16  
This Bill was read the third time November 9, 2016 and Passed , Passed with amendments , Failed .

By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

Approved/vetoed by the County Executive on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law. Strikeout indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard  
2 County Zoning Regulations are hereby amended as follows:

3  
4 By amending:

5  
6 Section 125.0: "NT (New Town) District"

7 Subsection A. "Definitions, Requirements and Restrictions Applicable to NT Districts"

8 Number 9. "Downtown Revitalization";

9  
10 Subsection E. "Final Development Plan—Downtown Revitalization"

11 Number 4. "Planning Board Review and Approval Criteria"; and

12  
13 Subsection H. "Site Development Plan—Downtown Revitalization"

14 Number 3. "Planning Board Review and Approval Criteria"

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17  
18 **Howard County Zoning Regulations**

19  
20 **SECTION 125.0: - NT (New Town) District**

21  
22 **A. Definitions, Requirements and Restrictions Applicable to NT Districts**

23  
24 **9. Downtown Revitalization:**

25 a. Applicability: To implement the recommendations of the Downtown  
26 Columbia Plan, new development or redevelopment of any property  
27 located within Downtown Columbia that is approved after April 6, 2010  
28 must comply with all provisions applicable to Downtown Revitalization,  
29 except as provided in Section 125.0.A.9.f. Downtown Revitalization  
30 shall require approval of: (I), a Final Development Plan or Final  
31 Development Plan Amendment, and (II), a Site Development Plan.

32 b. Uses: The following uses are permitted under the Downtown  
33 Revitalization Approval Process: All uses permitted in the POR, B-1, B-  
34 2, and SC Zoning Districts, Downtown Arts, Cultural and Community  
35 Uses and Dwellings. Structures may be developed with individual or

1 multiples uses. Section 125.0.A.8. a. does not apply to Downtown  
2 Revitalization.

3 c. Development Levels: The following maximum development level limits  
4 apply to Downtown Columbia for Downtown Revitalization, except as  
5 qualified by Sections 125.0.A.9.f.(1), (2) and (3).

6 (1) The maximum number of Downtown Net New dwellings  
7 permitted is 5,500 dwellings. The number of dwellings permitted  
8 under the Downtown Revitalization Approval Process, up to a  
9 maximum of 5,500 Downtown Net New dwellings, shall be in  
10 addition to the overall residential density established by Section  
11 125.0.A.4. G.

12 (2) The maximum amount of Downtown Net New commercial  
13 office development permitted is 4,300,000 square feet of gross  
14 floor area.

15 (3) The maximum number of Downtown Net New hotel and motel  
16 rooms permitted is 640 rooms.

17 (4) The maximum amount of Downtown Net New commercial retail  
18 development permitted is 1,250,000 square feet of gross floor  
19 area.

20 (5) The maximum development levels permitted above for  
21 Downtown Revitalization shall be in addition to the number of  
22 dwellings and gross floor area of nonresidential uses shown on a  
23 Site Development Plan approved prior to April 6, 2010.

24 D. FULL SPECTRUM HOUSING: TO PROVIDE A FULL SPECTRUM OF HOUSING  
25 AFFORDABILITY AS ENVISIONED IN THE DOWNTOWN COLUMBIA PLAN,  
26 AT LEAST 15% OF THE RESIDENTIAL DWELLINGS IN EACH DOWNTOWN  
27 COLUMBIA REVITALIZATION DEVELOPMENT SHALL BE AFFORDABLE AS  
28 DESCRIBED BELOW:

29 (1) REQUIREMENTS.

30 (A) IN EACH RENTAL HOUSING PROJECT, AT LEAST 15%  
31 OF THE UNITS MUST BE AFFORDABLE AS FOLLOWS:  
32 5% AT 40% OF HOWARD COUNTY AREA MEDIAN

1 INCOME (HC AMI), 5% AT 60% OF HC AMI, AND 5%  
2 AT 80% OF HC AMI.

3 (B) IN EACH FOR-SALE HOUSING PROJECT, AT LEAST 15%  
4 OF THE UNITS MUST BE AFFORDABLE AT 80% OF HC  
5 AMI.

6 (C) PROJECTS CONTAINING AFFORDABLE UNITS SHALL  
7 COMPLY WITH THE PROCEDURES SET FORTH IN THE  
8 MODERATE INCOME HOUSING UNIT (MIHU) LAW,  
9 SECTION 13.400 ET SEQ. OF THE HOWARD COUNTY  
10 CODE.

11 (D) NOTWITHSTANDING THE PROVISIONS OF SECTION  
12 100.0E OF THE ZONING REGULATIONS, ANY  
13 PROJECTS THAT HAVE FILED A SITE DEVELOPMENT  
14 PLAN ON OR AFTER OCTOBER 1, 2015 WILL COMPLY  
15 WITH THE REQUIREMENTS PROVIDED IN SUBSECTIONS  
16 (A). AND (B). OF THIS SECTION.

17 (E) THE PER-UNIT DEVELOPER CONTRIBUTIONS  
18 REQUIRED PREVIOUSLY UNDER THE DOWNTOWN  
19 COLUMBIA PLAN ARE ELIMINATED FOR ALL  
20 PROJECTS OTHER THAN THOSE PROJECTS THAT HAVE  
21 SITE DEVELOPMENT PLANS FILED BEFORE OCTOBER  
22 1, 2015.

23  
24 (2) FLEXIBILITY.

25 (A) *LOW-INCOME ALTERNATIVE.* A PROJECT MAY SATISFY  
26 THE AFFORDABILITY REQUIREMENT IN D(1) ABOVE  
27 BY PROVIDING AFFORDABLE UNITS IN ONE OF THE  
28 FOLLOWING ALTERNATIVES:  
29  
30

ALTERNATIVE	40% HCAMI UNITS	60% HCAMI UNITS	80% HCAMI UNITS
1	6%	4%	3%
2	7%	3%	1%
3	8%	2%	0%
4	9%	0%	0%

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(B) *LOW-INCOME UNIT CREDIT EXCHANGE.* IF A RENTAL HOUSING PROJECT IS A MIXED-INCOME PROJECT IN WHICH MORE THAN 15%, BUT NOT MORE THAN 45%, OF THE UNITS IN THE PROJECT ARE AFFORDABLE UNITS, THE DEVELOPER WILL RECEIVE A ONE-TO-ONE CREDIT FOR EACH AFFORDABLE UNIT THAT IS IN EXCESS OF THE REQUIRED 15% AND IS AFFORDABLE AT 60% OF HC AMI OR LESS. A ONE-TO-ONE CREDIT MAY BE APPLIED TO REDUCE THE NUMBER OF UNITS REQUIRED TO BE AFFORDABLE AT THE SAME LEVEL OF AFFORDABILITY IN ANOTHER RENTAL HOUSING PROJECT IN DOWNTOWN. PROVIDED, HOWEVER, THAT USE OF THIS LOW-INCOME UNIT CREDIT EXCHANGE SHALL NOT RESULT IN A RENTAL HOUSING PROJECT HAVING LESS THAN 5% OF ITS UNITS AS AFFORDABLE.

**E. Final Development Plan—Downtown Revitalization**

4. Planning Board Review and Approval Criteria

The Planning Board shall consider the Final Development Plan or Final Development Plan Amendment (see Errata at end of Section 125.0) at a public

1 hearing. The Planning Board shall approve, approve with conditions, or deny the  
2 petition based on whether the petition satisfies the following criteria:

3 a. The Downtown Neighborhood Concept Plan, the Neighborhood Specific  
4 Design Guidelines, and the Neighborhood Specific Implementation Plan  
5 conform with the Downtown-Wide Design Guidelines, the Downtown  
6 Columbia Plan, the Street and Block Plan, the Neighborhoods Plan, the  
7 Maximum Building Heights Plan, the Primary Amenity Space  
8 Framework Diagram, the Street Framework Diagram, the Bicycle and  
9 Pedestrian Plan, and the Open Space Preservation Plan, or that any  
10 propose change(s) will not be detrimental to the overall design concept  
11 and phasing for Downtown Revitalization. Limited change in building  
12 heights may be approved based on compatibility, character and height of  
13 nearby existing and planned development and redevelopment, and open  
14 spaces in the area. However, in no event shall the maximum building  
15 height for Downtown Revitalization exceed twenty stories;

16 b. The Neighborhood Design Guidelines submitted with the Final  
17 Development Plan or Final Development Plan Amendment offer  
18 sufficient detail to guide the appearance of the neighborhood over time,  
19 and promote design features that are achievable and appropriate for  
20 Downtown Revitalization in accordance with the Design Guidelines and  
21 the Downtown Columbia Plan;

22 c. The Final Development Plan conforms with the Neighborhood  
23 Documents, the Revitalization Phasing Plan, the Downtown Community  
24 Enhancements, (see Errata at end of Section 125.0) Programs, and Public  
25 Amenities Implementation Chart and Flexibility Provisions, the  
26 Downtown-wide Design Guidelines, the Downtown Columbia Plan, the  
27 Street and Block Plan, the Neighborhoods Plan, the Maximum Building  
28 Heights Plan, the Primary Amenity Space Framework Diagram, the  
29 Street Framework Diagram, the Bicycle and Pedestrian Plan, and the  
30 Open Space Preservation Plan. Limited change in building heights may  
31 be approved based on compatibility, character and height of nearby  
32 existing and planned development and redevelopment, and open spaces  
33 in the area. However, in no event shall the maximum building height for  
34 Downtown Revitalization exceed twenty stories;

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- d. The Final Development Plan, when considered in the context of surrounding planned or existing development, provides a balanced mix of housing, employment, and commercial and arts and cultural uses throughout each phase;
- e. The Final Development Plan satisfies the affordable housing requirement IN ACCORDANCE WITH SECTION 125 A.9.D OF THESE ZONING REGULATIONS;
- f. The bicycle, pedestrian, and transit network creates convenient connections throughout the subject area and connect, wherever possible, to existing and planned sidewalks, path, and routes adjoining the development;
- g. The Final Development Plan protects land covered by lakes, streams or rivers, flood plains and steep slopes, and provides connections, where possible to existing and planned open space within the neighborhood and in surrounding area;
- h. The Final Development Plan provides the location of Downtown Community Commons required under Section 125.0.A.9.h as indicated in the Neighborhood Concept Plan;
- i. The Final Development Plan is in harmony with existing and planned vicinal land uses. In making this determination, the Planning Board shall consider, if appropriate:
  - (1) Landscape features on the boundary of the plan area, which may include protection of existing vegetation or grade changes that provide a natural separation, or landscape planting;
  - (2) The size of buildings along the edges of the plan area through limits on building height or other requirements;
  - (3) The use and design of nearby properties and
  - (4) The adopted Downtown Columbia Plan recommendations for height, building massing and scale, and neighborhood connectivity;
- j. The development proposed by Final Development Plan is served by adequate public facilities, including any proposed mitigation or

1 development staging in accordance with the Adequate Public Facilities  
2 Ordinances (Title 16, Subtitle 11 of the Howard County Code);

3 k. The Final Development Plan protects environmentally sensitive features  
4 and provides environmental restoration in accordance with the  
5 Downtown Columbia Plan;

6 l. The Final Development Plan protects any historic or culturally significant  
7 existing sites, buildings or structures, and public art;

8 m. The Final Development Plan proposes any appropriate plan to satisfy the  
9 requirement for art in the community;

10 n. The Final Development Plan provides a plan to hold, own, and maintain  
11 in perpetuity land intended for common, quasi-public amenity use and  
12 public art that is not publically owned, including, without limitation, any  
13 Downtown Community Commons, Downtown Parkland, Downtown  
14 Arts, Cultural and Community Use, and Downtown Neighborhood  
15 Square shown on the Final Development Plan; and

16 o. To better ensure conformance with the Community Enhancements,  
17 Programs and Public Amenities provisions, the Final Development Plan  
18 provides for a plan to establish membership in the Downtown Columbia  
19 Partnership and payment of the annual charges. Each Final Development  
20 Plan shall show a consistent means of calculating and providing the  
21 required annual charges.

22  
23 **H. Site Development Plan—Downtown Revitalization**

24  
25 3. Planning Board Review and Approval Criteria.

26 The Planning Board shall approve, approve with conditions, or deny a Site  
27 Development Plan that proposes Downtown Revitalization based on whether the  
28 petition satisfies the following criteria:

29 a. The development conforms with the adopted Downtown Columbia Plan.



- 1                   b.     The development implements and conforms to the approved Final  
2                   Development Plan or Final Development Plan Amendment including all  
3                   applicable Final Development Plan approval criteria and conditions.
- 4                   c.     The development is well-organized in terms of the location of buildings  
5                   and structures, downtown community commons, landscaping, pedestrian  
6                   and vehicular circulation systems, and other Downtown Revitalization  
7                   features.
- 8                   d.     If the development provides Downtown Community Commons and/or  
9                   Downtown Parkland, they are reasonable and appropriate given the  
10                  location, scale and anticipated intensity of adjacent uses in accordance  
11                  with the Downtown Columbia Plan.
- 12                  e.     The maximum building heights will conform to the Final Development  
13                  Plan.
- 14                  f.     The development satisfies the Downtown Public Art Program approved  
15                  with the Final Development Plan or Final Development Plan Amendment  
16                  approval.
- 17                  g.     The Site Development Plan satisfies the affordable housing requirements  
18                  in accordance with SECTION 125 A.9.D OF THESE ZONING REGULATIONS  
19                  AND the approved Final Development Plan.
- 20                  h.     The development satisfies the Adequate Public Facilities Ordinance, if  
21                  applicable.
- 22                  i.     The development indicates the manner in which any land intended for  
23                  common or quasi-public use, but not proposed to be in public ownership,  
24                  will be held, owned and maintained in perpetuity for the indicated  
25                  purposes.
- 26                  j.     The petition is accompanied by documentation demonstrating  
27                  membership in the Downtown Columbia Partnership including the  
28                  required annual charges.
- 29
- 30

31     ***Section 2. Be it further enacted*** by the County Council of Howard County, Maryland, that this Act  
32     *shall become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 44-2016

BY: Jennifer Terrasa

Legislative Day No: 18  
Date: 11/9/16

Amendment No. 1

*(This amendment would delete the proposed Low-Income Unit Credit Exchange concept.)*

1 On page 3, strike lines 24 through 28, and substitute:

2 “(2) LOW-INCOME ALTERNATIVE.

3 A PROJECT MAY SATISFY THE AFFORDABILITY REQUIREMENT IN D(1) ABOVE BY PROVIDING

4 AFFORDABLE UNITS IN ONE OF THE FOLLOWING ALTERNATIVES:”.

5

6 On page 4, strike lines 2 – 17, in their entirety.

7

8

9

ADOPTED 11/9/16  
FAILED  
SIGNATURE Jessica Feldman

Amendment 2 to Council Bill No. 44-2016

BY: Jennifer Terrasa

Legislative Day No: 18  
Date: 11/9/16

Amendment No. 2

*(This amendment would add a requirement for public art in MIHU developments)*

1 On the title page, in line 3 of the title, after the semi-colon, insert “requiring that certain  
2 types of construction provide for art in the community;”.

3  
4 On page 4, in line 18, insert the following:

5 “[[d]]E. Off-Street Parking: Off-street parking and loading facilities within  
6 Downtown Columbia must be provided in accordance with the provisions for  
7 Downtown Revitalization in Section 133.0.E.3.

8 [[e]]F. Previously Developed Properties.

9 (1) Notwithstanding any other provision of these Regulations, any property  
10 currently improved with a building and any associated parking lots  
11 pursuant to a recorded Final Development Plan and an approved Site  
12 Development Plan as of April 6, 2010, may continue to be used in  
13 accordance with the terms and requirements on the Final Development  
14 Plan, but only to the same size and dimensions in the same location as  
15 shown on the approved Site Development Plan, except for minor changes  
16 to the Site Development Plan, which shall be governed by Section  
17 125.0.G.

18 (2) Demolition of existing improvements that are located within Downtown  
19 Columbia that occurs after April 6, 2010 shall result in the creation of a  
20 Demolition Development Credit equal to the number of dwellings and  
21 gross floor area devoted to nonresidential uses that were demolished. A  
22 Demolition Development Credit: (I) may be used anywhere within  
23 Downtown Columbia; and (II) shall not be limited by or counted against

1 recommended development levels in the Downtown Columbia Plan or the  
2 maximum level of development permitted by Section 125.0.A.9.c.

3 (3) Any existing structure or improvement that is located within Downtown  
4 Columbia that is destroyed by fire, flood or other calamity may be restored  
5 to the same size and dimensions in the same location as the destroyed  
6 structure in accordance with the previously approved Site Development  
7 Plan, provided that a building permit is issued with two (2) years from the  
8 date such structure was destroyed and reconstruction begins within six (6)  
9 months after issuance of the building permit. The Planning Board may  
10 approve an extension for good cause shown up to a maximum two  
11 additional years to obtain a building permit and begin construction.  
12 Structures and improvements constructed under this Section  
13 125.0.A.9.f.(3) shall not be limited by or counted against development  
14 levels in the Downtown Columbia Plan or the maximum Downtown Net  
15 New level of development permitted by Section 125.0.A.9.c.

16 [[f]]G. Additional Requirements.

17 (1) The maximum building height permitted for Downtown Revitalization shall  
18 conform to the building height shown on the Downtown Maximum Building  
19 Height Plan and shall not exceed twenty stories.

20 (2) Any Downtown Revitalization Development shall provide for art in the  
21 community that is equivalent in value to 1% of the building construction cost.

22 (a) Art must be provided:

23 (i) On site;

24 (ii) On other property located within Downtown Revitalization development  
25 provided with the written consent of the owner of the fee simple property;

26 or

27 (iii) The petitioner may pay a fee in-lieu of providing art on-site that is  
28 equivalent in value to 1% of the building construction cost.

29 (b) Art may be provided in combination with other Downtown Revitalization

1                    Developments.

2                    (c) Each in-lieu fee must be paid prior to issuance of a use and occupancy permit  
3                    for the first building in the project that generates the requirement, and the  
4                    collected funds must be used to provide art on property within Downtown  
5                    Revitalization Developments.

6                    (d) If the value of the art provided on site or in combination with other projects  
7                    exceeds 1% of the building construction cost, then the excess value beyond  
8                    1% can be credited towards the requirements of this subsection for a  
9                    subsequent-Final Development Plan subject to the procedures and  
10                    requirements set forth in this subsection.

11                    (e) The following construction projects are not subject to the requirements of this  
12                    section:

13                    [(i)] Construction of Moderate Income Housing Units.]]

14                    [(ii)](i) Construction of places of worship and their accessory uses.

15                    [(iii)](ii) Renovations to existing or construction of new cultural facilities  
16                    which include facilities located within a Downtown Arts and  
17                    Entertainment Park, Downtown Arts, Cultural and Community Uses, and  
18                    Downtown Community Commons.

19                    [(iv)](iii) Parking Structures.

20                    [(v)](iv) Renovations to existing buildings or structures required by  
21                    government mandated code compliance construction projects, such as  
22                    projects exclusively designed for compliance with the Americans with  
23                    Disabilities Act ("ADA"), the Maryland Accessibility Code, the National  
24                    Fire Protection Association (NFPA) Life Safety Code, and/or fire sprinkler  
25                    retrofits.”.

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ADOPTED 11/9/16  
FAILED  
SIGNATURE Jessica Feldman