

Proposed Amendments to Bill 1232

Proposed by: Staff

Introduced by Mr. Bartlett, Mr. Duncan (via absentee ballot), Mr. Pack, Ms. Price

Date: March 26, 2013

KEY

Boldface	Heading or defined term
<u>Underlining</u>	Bill adds to existing law
Strikethrough	Bill deletes from existing law
Yellow underlining	Added to Bill by this amendment
Yellow strikethrough	Deleted from Bill by this amendment
Green text.....	Existing text, moved by Bill
* * *	Existing law unaffected

Proposed Amendments: All amendments proposed to existing law or to the text of the Bill are highlighted in **YELLOW**

Line 12-13: Amendment: A proposed amendment to the text of this chapter may be submitted to the Council by any interested person

Purpose: This new language is intended to clarify that the application is to the Council. This is consistent with existing law, both in the title of § 190-173 and in Subparagraph A (lines 1 & 2 of the Bill).

Line 15: Amendment: This adds the same language "... to the Council..." for zoning map amendments, applications for growth allocation, or applications for a solid waste disposal site.

Purpose: Same as above. Although zoning map and text amendments are categorized separately, the application is to the Council for proposed changes to both. Again, this is consistent with existing law.

Lines 18-31 Amendment: deletes language from original Bill in lines 19 through 23. Substitutes yellow, highlighted, underlined language.

Subparagraph (i) (Line 24): If a proposed text or map amendment has comprehensive impacts to the general welfare of the County, at Council's direction staff will draft or share in the drafting of the proposed amendment. The concealed tower legislation would be a good example of the type of situation envisioned by Subparagraph (i). Although proposed by a private citizen, at Council's direction staff was exclusively involved in the formulation and drafting of the Bill that was presented to Council for consideration and that was ultimately adopted.

Subparagraph (ii) (Line 27): If the proposed text or map amendment is focused on a specific land use, zoning, or other topic (but not having comprehensive impacts to the general welfare of the County, and not inherently inconsistent with the Zoning Ordinance and the Comprehensive Plan as referenced in (iii), below), Council may authorize staff to process the application, but it would be filed by the interested person. Staff would generally assist the applicant, but would not be responsible for formulation or drafting of the proposal. Instead, the interested party would be responsible for presentation of his/her proposal for staff's review and comment. Staffs input would be primarily for Council's benefit, as opposed to staff time being spent to actively sponsor the idea proposed in the application.

Subparagraph (iii) (Line 30): If the proposed amendment is inherently inconsistent with the Zoning Ordinance and the general spirit of the Comprehensive Plan, Council may direct it not be processed. In some instances, all members of Council may be unwilling to sponsor a map or text amendment requested by a private citizen. These are a few examples of amendments that were not introduced or failed at Council level:

- Landscape contractor – not introduced (twice)
- Overnight RV parking – not introduced 2011, Tabled/Failed 1997
- Rezone Williamsburg TR to VC – failed
- Private retreat club overlay zone – not introduced

Amendments are not substantive: An amended ordinance cannot be deemed to be new or different one unless it enlarges or narrows the scope of the original ordinance to such an extent that the ordinance as enacted can be said to be misleading in a substantial manner in its final form. Amendments that do not defeat the original purpose of the ordinance are not so substantial as to become a new ordinance. *Ajamian v. Montgomery County*, 99 Md. App. 665, 684-685 (1994). This amendment meets that test and it is therefore not substantive.