

## ZTA 25-05

### DEVELOPMENT STANDARDS – OPTIONAL METHOD PUBLIC BENEFITS

#### Description

This ZTA comprehensively updates the public benefits system for the development of optional method projects in the Commercial/Residential and Employment zones.

ZTA 25-05  
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#### ZTA SPONSORS

Lead Sponsor:  
Planning, Housing, and Parks Committee  
(Councilmembers Friedson, Fani-González,  
and Vice President Jawando)

#### INTRODUCTION DATE

April 29, 2025

#### COUNCIL PUBLIC HEARING DATE

June 10, 2025

#### REVIEW BASIS

Chapter 59

## Summary

- During June 2024, the Planning Board held a series of work sessions on the Incentive Zoning Update Study, transmitting the study to the County Council.
- The County Council and its Planning, Housing, and Parks Committee were briefed on the project in November-December 2024.
- ZTA 25-05 implements the new public benefits recommended by the Incentive Zoning Update Study.
- The District Council will have a public hearing on ZTA 25-05 on June 10, 2025.
- A subsequent ZTA will be considered after adoption of ZTA 25-05 to modify public benefits included in existing overlay zones.

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## SECTION 1 – BACKGROUND

### Rationale For Introduction

Zoning Text Amendment (ZTA) 25-05, Development Standards – Optional Method Public Benefits was introduced on April 29, 2025, by the Planning, Housing, and Parks (PHP) Committee, whose members include Councilmembers Friedson and Fani-González, and Council Vice President Jawando (Attachment A). The ZTA is scheduled for a District Council Public Hearing on June 10, 2025. The drafting of ZTA 25-05 was a collaborative effort between Planning and Council Staff following a briefing on the Incentive Zoning Update.

This ZTA is the mechanism necessary to implement the new system of public benefits recommended in the Planning Department’s project. The Planning Board held three work sessions in June 2024 where Planning Staff briefed the Board on the project, the recommendations, and received feedback from the community and the Board. Planning Staff briefed the full County Council on November 19, 2024 and then briefed the PHP committee on [December 2, 2024](#) where the committee gave a favorable review of the project and directed Planning and Council Staff to work on drafting what ultimately became ZTA 25-05. The ZTA closely follows the recommendations of the Planning Board, therefore, Planning Staff’s analysis accompanying ZTA 25-05 is mostly focused on the technical analysis of what sections are changing and why, and less focused on the details of the public benefit system itself. For more information about the proposed public benefit system, see the Montgomery Planning page on the [Incentive Zoning Update](#).

### Comparison of Public Benefits

#### EXISTING PUBLIC BENEFIT SYSTEM

The current system of public benefits, located in Division 4.7. of the Zoning Code, requires applications that utilize the optional method of development in the Commercial/Residential or Employment Zone groups to provide public benefits, from a pre-determined number of categories to achieve a pre-determined number of points, based on zone and location. There is no consideration for the size of a development application on how many public benefits must be provided; either a project is optional method development or not. This can disincentivize mid-size projects and encourage applications to downsize to standard method development. The system was first created in 2010 as part of the 2010 *White Flint Sector Plan* which coincided with the creation of the group of Commercial/Residential zones. The program was updated slightly as part of the comprehensive zoning rewrite that took effect in 2014 but has largely remained the same since.

The existing system has seven existing categories of public benefits, for a combined 36 individual benefits. These appear to offer a wide variety of choices, however, only a handful of the public benefits are repeatedly used. The existing system has seen uneven activity across the eligible zones

with most public benefits being provided in the CR and CRT Zone and very few in the Employment Zones. Also, while Master Plans have prioritized certain benefits over others, the effectiveness in ensuring their delivery has been mixed.

#### PROPOSED PUBLIC BENEFIT SYSTEM

The proposed system of public benefits identified in the Incentive Zoning Study and included in ZTA 25-05 is more streamlined, with only four public benefit categories, and a total of 14 individual benefits.

<b>HOUSING FOR ALL</b>	<b>ENVIRONMENTAL RESILIENCE</b>
MPDUs Family sized units Deeper levels of affordability	Energy Efficiency Renewable Energy Green Buildings Sustainable Site Design
<b>INFRASTRUCTURE FOR COMPACT GROWTH</b>	<b>COMPLETE COMMUNITY AMENITIES</b>
Offsite Improvements Public Facilities Street Grid and Multi-Modal Extensions	Art and Placemaking Neighborhood Services & Mixed Use Great Public Realm Design Excellence

Public benefits are no longer tied to pre-determined numbers of points, but rather vary with the size of a project and the amount of requested Incentive Density. Incentive Density is defined as the difference between the maximum allowed density under the standard method (0.50 FAR across both the CRT and CR zones), and the mapped FAR for a particular property. If a property is zoned FAR 3.0, the incentive density would be 2.5 FAR (3.0 FAR minus 0.50 FAR, the standard method limit). Each public benefit has tiers that allow an applicant to build increasing amounts of Incentive Density for increasing effort and cost toward implementing a public benefit. Since Employment zone properties generated relatively few optional method projects over the past 15 years, the proposed public benefit system would only apply to the group of Commercial/Residential zoned properties.

## SECTION 2 – ZTA ANALYSIS

### ZTA 25-05 As Introduced

ZTA 25-05 implements the recommendations from the Incentive Zoning Update. This ZTA fully replaces Division 4.7. Optional Method Public Benefits, while maintaining the existing system of Public Benefits as a new Division 8.4. for legacy projects. The ZTA also updates various section references and Public Benefit references throughout the code. This ZTA, however, does not update any of the Overlay Zones under division 4.9; a subsequent ZTA will be needed to ensure any Overlay Zones that have modified the Public Benefits are integrated into the new system. Similar to drafting ZTA 25-05, this will likely be a collaboration between Planning Staff and Council Staff to ensure the intent of the existing overlay zones are maintained while updating the language and procedures to match the current system.

The following sections provide a technical analysis of the differences between the Planning Board’s recommendations and the ZTA introduced by the PHP Committee.

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#### DIVISION 1.4. DEFINED TERMS.

Starting on line 12, the ZTA adds a definition for the term Incentive Density, defined as the difference in density between the maximum allowed under the standard method of development and the mapped FAR.

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#### DIVISION 4.5. COMMERCIAL/RESIDENTIAL ZONES

There are multiple small revisions throughout Division 4.5. Commercial/Residential Zones to ensure the code is consistent with the new approach to Public Benefits. These Include:

- Replace “major public facility” with “Tier 4 public benefit under the Public Facility, Art and Placemaking, or Neighborhood services and Mixed Use categories” (lines 28-31 and 33-34)
- Replace “benefit points” with “for any requested incentive density” for projects utilizing FAR averaging. (lines 42-43)
- Standardizing the optional method threshold between the CRT and CR zones to the greater of 0.5 FAR or 10,000 square feet of gross floor area. (lines 56-59)
- Updating the Public Benefits and Categories section under Section 4.5.4. Optional Method Development, stating that public benefits are required to satisfy any requested incentive density, rather than based on providing a number of fixed points. (lines 66 – 73)

The rules for how Building Lot Terminus (BLT) easements and Agricultural Land Preservation Fund (ALPF) are conducted are added to Division 4.5. (lines 74-94). Current code requires the purchase of BLT easements for optional method projects; however, the requirements are shown as a public benefit within Division 4.7. This ZTA relocates the requirements to Section 4.5.4. making it a

requirement no longer eligible as a public benefit. The ZTA also makes some policy updates allowing any ALPF collected to be used for BLTs or TDRs.

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## DIVISION 4.6. EMPLOYMENT ZONES

A major component of the Incentive Zoning Update is the removal of the optional method of development from the Employment Zones. Currently, the LSC and EOF Zones permit optional method development, which require providing public benefits. In the EOF zone, only one project has developed under the optional method with public benefits in the past 10+ years. In the LSC Zone, most of the zone is now covered by the Great Seneca Science Center Overlay Zone, which has its own development and public benefit requirements. Removing optional method development from the Employment Zones results in a few changes proposed by the ZTA, including:

- Removing reference to public benefits under the intent statement (line 114).
- Removing references to Optional Method, sketch plan, or public benefits from FAR averaging (lines 120, 125-126, 138-140, 147-148).
- Relocating the provision for additional height for the development of certain biohealth uses, to the general provisions of the Employment Zones (lines 152-165), which is currently in Section 4.6.4. Optional Method.
- Removing the threshold that separated standard from Optional Method in the Employment Zones (lines 170, 172-176).
- Removing Section 4.6.4. Optional Method Development in its entirety (Lines 187 – 279)

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## DIVISION 4.7. OPTIONAL METHOD PUBLIC BENEFITS

Division 4.7. are the sections of code where the public benefit system is located. The ZTA, from lines 282 – 651, removes the existing Division 4.7. in its entirety, relocating it to a new Division 8.4., which is discussed later in this report. Lines 654 – 1295 are the addition of the new public benefit system as discussed through the Incentive Density Update project.

The new public benefit section follows the same sections as the existing code:

### SECTION 4.7.1. GENERAL PROVISIONS

- A. **Public Benefit Categories** – A summary of the four major public benefit categories: Housing for All, Environmental Resilience, Infrastructure for Compact Growth, and Complete Communities (lines 654 – 665).
- B. **General Public Benefit Considerations** – Explains how to use the new system (lines 666 – 735), including:
  - providing benefits across multiple categories and multiple tiers,
  - outlining the tier system for earning Incentive Density,
  - an exception for properties under 1 acre mapped with a FAR greater than 4.0,

- criteria for the Board to consider in approving public benefits,
  - requirements to follow Master Plan recommended public benefits, and
  - a payment-in-lieu system for certain public benefits.
- C. **Public Benefit Implementation Guidelines** – Requirement that the Planning Board adopt implementation guidelines that are consistent with Section 4.7. of the Zoning Code and include any standard requirements or rules for interpreting each public benefit (lines 736 – 744).
- D. **Public Benefit Procedures and Exemptions** – A new section outlines when and how existing or in-process development applications on the ZTA's effective date will use the previous public benefit system in Division 8.4. or the new benefits now in Division 4.7. (lines 745 – 762).

#### SECTION 4.7.2. PUBLIC BENEFIT OVERVIEW

This section of the ZTA (lines 767-786) identifies the 14 new public benefits, broken down by category and section, but does not provide any explanation of what the benefits are or how to implement them. That information is section 4.7.3 of the ZTA.

#### SECTION 4.7.3. PUBLIC BENEFIT DESCRIPTION AND CRITERIA

Section 4.7.3. (lines 787-1295) contains the detailed descriptions outlining what each public benefit is, and what criteria are used to determine eligibility for each tier of benefit. This section will be used in conjunction with the pending implementation guidelines during the development review process. These descriptions are similar to what the Planning Board saw during its work session in June. The only minor changes of note occur under the Environmental Resilience, and the Infrastructure for Compact Growth categories.

In Environmental Resilience, there were three public benefits: Energy, Green Buildings, and Sustainable Site Design. As Council Staff and Planning Staff drafted the ZTA, it became clear there were two discrete Energy public benefits: Energy Efficiency, and Renewable Energy. The criteria for meeting the public benefits remain the same, but they are split into two benefits because Energy Efficiency encourages more efficient building design, while Renewable Energy promotes on or off-site creation of green energy. The second change under Infrastructure for Compact Growth is a name change to one of the public benefits. Street Grid and Trail Extensions have been renamed Street Grid and Multi-Modal Extensions to better capture the intent and expected type of infrastructure improvements expected from applicants.

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#### DIVISION 5.3. COMMERCIAL/RESIDENTIAL FLOATING ZONES

The changes proposed by the ZTA to Division 5.3. (starting on line 1302) mirror the changes made to the Commercial/Residential zones in Division 4.5. including clarifying that both the CRTF and the CRF zones require public benefits for developments above 0.50 FAR, and that public benefits are needed to satisfy incentive density rather than points.



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## DIVISION 5.4. EMPLOYMENT ZONES

The ZTA starting on line 1330 removes references to optional method developments or public benefits from the Employment Floating Zone section, consistent with the removal of optional method development and public benefits from the standard Employment Zone section in Division 4.6.

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## DIVISION 8.4. OPTIONAL METHOD PUBLIC BENEFITS

The current policy for public benefits is being retained but relocated to a new Division 8.4. Division 8 generally is for zones that have been retained from the Zoning Code that was in effect up to October 29, 2014, as there are certain properties where these legacy zones still apply. This was the logical place to move the existing public benefit system, so it remains available as a legacy provision for development applications that were approved under this version of public benefits. The ZTA amends the applicability section for Division 8 to this effect. The remainder of the ZTA, from lines 1373 – 1743 is the addition of Division 8.4.

### ZTA 25-05 Recommendations

Planning Staff recommends the Board support ZTA 25-02 with one amendment. In the new public benefits system, there are a list of “General Public Benefit Considerations” (Section 4.7.1.B. lines 666 – 735) that outline generally how the public benefit system works. Planning Staff believe one essential element was inadvertently left out when drafting this section – how Master Plans and Overlay Zones interact with the public benefits. Planning Staff recommend adding the following text as a new 4.7.1.B.7 starting on line 703 of the ZTA:

7. A Master Plan may modify the menu of public benefits under Section 4.7.2.A. including adding, prioritizing, modifying, or prohibiting the use of certain public benefits, and modifying the compliance criteria or the tiers of participation under 4.7.3. Modifications shall be discussed in the implementation section of the Master Plan and reflected through an overlay zone.

Planning Staff expect that many future Master Plans may want to make modifications to the public benefit system therefore expressing clear guidance on how to conduct such modifications is important.

## SECTION 3 – CLIMATE ASSESSMENT

The climate impact assessment for ZTA 25-05 is attached in Attachment B.

## SECTION 4 – CONCLUSION

Planning Staff recommends the Planning Board support ZTA 25-05 as introduced with the one amendment to add guidance on how Master Plans may amend the public benefit system. This ZTA is a major milestone in the Incentive Zoning Update project, helping create more predictable and purposeful public benefits that will benefit both future applicants and the community.

## SECTION 5 – ATTACHMENTS

*Attachment A: Zoning Text Amendment 25-05 Intro Packet*

*Attachment B: Climate Assessment 25-05*