



**Committee:** Directly to Council  
**Committee Review:** N/A  
**Staff:** Carolyn Chen, Legislative Analyst *cgc*  
**Purpose:** Final action – vote expected  
**Keywords:** #arts #artsandentertainment

AGENDA ITEM #15C  
 April 5, 2022  
**Action**

**SUBJECT**

Resolution to Support Application to the State for Re-Designation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County

**EXPECTED ATTENDEES**

None.

**COUNCIL DECISION POINTS**

Introduction occurred on March 29, 2022. Final Action only. Public Hearing conducted by Silver Spring Citizen’s Advisory Board on March 14, 2022, and the Western Montgomery County Citizens Advisory Board on March 21, 2022.

**DESCRIPTION/ISSUE**

The County Executive recommends supporting the application to the State for re-designation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County.

**SUMMARY OF KEY DISCUSSION POINTS**

The application to the State of Maryland for the re-designation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County requires a written expression of the sentiment of the local elected governing body regarding the filing of the application, which may be in the form of a resolution.

**This report contains:**

- Memo from Executive – March 25, 2022 ©1-2
- Resolution to Support Application to the State for Re-Designation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County ©3-4
- Sec. 52-16A: Admissions and amusement tax ©5
- Sec. 52-99: Property tax credit — arts and entertainment district ©6

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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

MEMORANDUM

March 25, 2022

TO: Gabe Albornoz, President  
Montgomery County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: Support for Application to the State for Redesignation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County

The Secretary of the Maryland Department of Commerce is authorized to designate one or more Arts and Entertainment Districts within the State every year. The Secretary previously designated the Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County. These designations are set to expire soon. However, Code of Maryland Regulations (COMAR), § 24.05.26.08 provides that a political subdivision may apply for the redesignation of all or a portion of the designated District(s) before the end of the designation period. I am in support of the applications these two Districts are about to submit for redesignation:

Since the Silver Spring Arts and Entertainment District was first established in 2002, arts and entertainment events have grown from 2 events annually to more than 500 per year. The number of public art displays has grown from 13 pieces to more than 80, and the number of arts organizations/creative enterprises/entertainment venues has grown from just a handful to over 75.

Since the last redesignation of the Bethesda Arts & Entertainment District in 2012, the District has created more opportunities for regional artists and opened new studio space for artists. It has started a new public art program which includes artwork at the Bethesda Metro station and nearby pedestrian tunnel. Additionally, it initiated a new film fest, songwriting awards program, award-winning streetery, and additional special events and festivals for the community at large to enjoy.

Public hearings regarding the proposed redesignation of these two Districts recently were held by the Western Montgomery County Citizens Advisory Board and the Silver Spring Citizen's Advisory Board. Montgomery County Regional Services Center staff attended these hearings where the public was invited to provide comments. Staff received support and positive comments regarding the potential redesignations.

These two Arts and Entertainment Districts have proven to be important placemaking tools contributing to the quality of life we all value in Montgomery County. All these programs enrich the environment for Silver Spring residents and businesses. They now attract hundreds of thousands of visitors each year to the Bethesda and Silver Spring Arts & Entertainment Districts. I recommend the County Council approve the attached resolution in support of the Bethesda and Silver Spring Arts and Entertainment Districts' applications for redesignation as Arts and Entertainment Districts by the Maryland Department of Commerce.

cc: Richard S. Madaleno, Chief Administrative Officer  
Jake Weissman, Assistant Chief Administrative Officer

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the Request of the County Executive

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SUBJECT: Support for Application to the State for Re-Designation of Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County

**Background**

1. Md. Code Ann., Econ. Development Article, § 4-704 authorizes the Secretary of the Maryland Department of Commerce to designate one or more Arts and Entertainment Districts within the State every year.
2. Each Arts and Entertainment District is to be designated in accordance with the requirements set forth in Md. Code Ann., Econ. Development Article, § 4-704 and the regulations required to be adopted per § 4-707.
3. Md. Code Ann., Econ. Development Article, § 4-703 provides that a political subdivision of the state may apply to the Secretary for the designation of an Arts and Entertainment District within that political subdivision.
4. The Secretary previously designated the Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County, which designations are set to expire.
5. Code of Maryland Regulations (COMAR), § 24.05.26.08 provides that a political subdivision may apply for the redesignation of all or a portion of the designated district(s) before the end of the designation period.
6. The application to the Secretary must include, among other things, evidence that the political subdivision held a public hearing about the application with adequate notice and publicity, and a written expression of the sentiment of the local elected governing body regarding the filing of the application for the redesignation, which may be in the form of a resolution.

7. In accordance with the application process: (a) the Western Montgomery County Citizens Advisory Board invited public comment on the re-designation of the Bethesda Arts and Entertainment District and held a public hearing on March 21, 2022 to receive comments on the Bethesda Arts and Entertainment proposal; and (b) the Silver Spring Citizen's Advisory Board invited public comment on the re-designation of the Silver Spring Arts and Entertainment District and held a public hearing on March 14, 2022 to receive comments on the Silver Spring Arts and Entertainment District proposal; and
8. The County Executive recommends that the County Council approve the recommendations to apply for re-designation of the Bethesda and Silver Spring Arts and Entertainment Districts.

**Action**

The County Council for Montgomery County, Maryland, approves the following resolution:

The County Council supports the applications to the Secretary of the Maryland Department of Commerce for re-designation of the Bethesda and Silver Spring Arts and Entertainment Districts in Montgomery County.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.  
Clerk of the Council

Approved for Form and Legality:

*Neal Anker* \_\_\_\_\_ 3/24/2022  
Neal Anker, Associate County Attorney

**Sec. 52-16A. Admissions and amusement tax.**

(a) As authorized by Section 4-102(a)(1) of the Tax-General Article of the Maryland Code, a tax is imposed at a rate set by resolution adopted by the Council and approved by the Executive on the gross receipts derived from any admissions and amusement charge as defined in Section 4-101(b) of the Tax-General Article except to the extent this rate is limited by Section 4-105(b) of the Tax-General Article. If the Executive disapproves a resolution within 10 days after it is adopted and the Council readopts it by a vote of six Councilmembers, or if the Executive does not act within 10 days after the Council adopts it, the resolution takes effect.

(b) In addition to the exemptions listed in Section 4-103 of the Tax-General Article, the following gross receipts are exempt from this tax:

(1) gross receipts used exclusively for community or civic improvement by a not for profit community association as defined by Section 4-104(a) of the Tax-General Article;

(2) gross receipts from any charge for admission to a concert or theatrical event of a not for profit organization organized to present or offer any of the performing arts as defined by Section 4-104(b) of the Tax-General Article;

(3) gross receipts from any admissions and amusement charge by the County Board of Education or Montgomery College, or by any County, bi-county, or municipal government agency, including the Revenue Authority and the Maryland-National Capital Park and Planning Commission;

(4) gross receipts from any admissions and amusement charge levied by an arts and entertainment enterprise or qualifying residing artist in an arts and entertainment district designated under state law;

(5) gross receipts from any public daily fee golf course for which admission or a playing fee is charged; and

(6) gross receipts from any activity related to agricultural tourism for which admission is charged. Agricultural tourism means the act of visiting a farm, vineyard, winery, or orchard for entertainment, education, or participation in agricultural activities. Agricultural tourism does not include any activity at a County fair.

(c) Revenue from the admissions and amusement tax set at a rate of 7 percent or less may be used for General Fund purposes. Additional revenue generated from levying the tax at a higher rate must be used to support, encourage, and promote arts and humanities in the County, including projects, performances, historic and heritage preservation, and other activities that advance the artistic, cultural, and intellectual environment in the County. The Council must decide in the annual operating budget how these funds are administered. (Res. No. 7-832; Res. No. 7-1079; Res. No. 8-237; Res. No. 8-1975; Res. No. 12-431; 1999 L.M.C., ch. 8, § 1; [2002 L.M.C., ch. 1](#), § 1; [2004 L.M.C., ch. 7](#); [2007 L.M.C., ch. 9](#), § 1.)

**Editor's note**—Section 52-16A is cited in Comptroller of the Treasury v. Clyde's of Chevy Chase, 377 Md. 471, 833 A.2d 1014 (2003). In Twinbrook Swimming Pool Corp. v. Comptroller of the Treasury, Admissions Tax Division, 274 Md. 88, 333 A.2d 49 (1979), it was held that where a fee paid which is not related to the use of a swimming pool, i.e. where the same fee is paid regardless of the frequency of the use of the pool, is not subject to the above tax.

**Sec. 52-99. Property tax credit — arts and entertainment district.**

(a) In this Section the following words have the meanings indicated.

*Arts and Entertainment District*, *Arts and Entertainment Enterprise*, and *Qualifying Residing Artist* are defined in Section 4-701 of Article 83A of the Maryland Code.

*Base year* means the taxable year immediately before the taxable year in which a property tax credit under this section is granted.

*Base year value* means the value of the property used to determine the assessment on which the property tax was imposed for the base year. *Base year value* does not include any property first assessed in the base year.

*Eligible assessment* means the difference between the base year value and the actual assessed value for the applicable taxable year in which the tax credit under this section is granted.

(b) The Director of Finance must allow a tax credit, as authorized by state law, to a taxpayer against the County property tax imposed on a manufacturing, commercial, or industrial building that:

(1) is located in an arts and entertainment district; and

(2) is wholly or partially constructed or renovated to be capable for use by a qualifying residing artist or an arts and entertainment enterprise.

(c) A tax credit granted under this Section applies for 10 years, as provided in subsection (d), for that portion of the building that is used by a qualifying residing artist or an arts and entertainment enterprise.

(d) The Director must calculate a tax credit allowed under this Section as follows:

(1) Except for properties allowed an Enterprise Zone Tax Credit, the amount of the tax credit under this Section is the following percentage of the amount of property tax imposed on the eligible assessment of the property entitled to the credit:

(A) 80% in each of the first 5 taxable years after the calendar year when the property initially is entitled to the credit;

(B) 70% in the 6th taxable year;

(C) 60% in the 7th taxable year;

(D) 50% in the 8th taxable year;

(E) 40% in the 9th taxable year; and

(F) 30% in the 10th taxable year.

(2) For properties allowed an Enterprise Zone Tax Credit, the amount of the tax credit under this Section is 20% of the amount of property tax imposed on the eligible assessment of the property entitled to the credit for each of the 10 taxable years after the calendar year when the property initially is entitled to the credit. The credit under this Section is in addition to the Enterprise Zone Tax Credit. ([2002 L.M.C., ch. 1](#), § 2; [2008 L.M.C., ch. 26](#); [2016 L.M.C., ch. 7](#), § 2.)