



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #8
03/22/07

DATE: March 13, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review Division *RK*
Ralph Wilson, Acting Zoning Supervisor *RW*
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendments
PURPOSE: To amend the Zoning Ordinance to clarify text of the 1928 Zoning Ordinance; and generally amend the special provisions for conditions predating 1958

TEXT AMENDMENT: 07-02
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance
INTRODUCED BY: Council President Praisner and Councilmembers Berliner, Leventhal & Elrich
INTRODUCED DATE: February 13, 2007
PLANNING BOARD REVIEW: March 22, 2007
PUBLIC HEARING: March 27, 2007, 1:30 PM

STAFF RECOMMENDATION: Approval, as submitted. ZTA 07-02 clarifies that the development standards of the 1928 Zoning Ordinance, and not the standards of the 1930 reenacted version, apply to single-family houses on lots recorded before 1928.

SUMMARY

The Board of Appeals has based decisions on both the 1928 ordinance and the 1930 ordinance. The interpretation of the Department of Permitting Services is that the 1928 ordinance controls development on lots recorded before 1928. The Circuit Court in the Duffy case resolved the issue in a manner that contradicts the interpretation of DPS. ZTA 07-02 will declare the intent of the Council to property owners, the Circuit Court, the Board of Appeals, and the Department of Permitting Services that single-family houses on lots recorded before 1928 must meet the requirements in the 1928 Zoning Ordinance, not the 1930 reenacted version (that included amendments). This

is accomplished by codifying the 1928 ordinance as an attachment to Section 59-B. The legislative history that demonstrates the need for this ZTA is described below.

BACKGROUND

Legislative History

- On March 6, 1928 the Board of County Commissioners of Montgomery County adopted the County's first zoning ordinance. The 1928 Zoning Ordinance declared that houses could only be constructed on recorded lots 5,000 square feet or greater in size with a 50-foot lot width. Existing lots with a street frontage of 40 feet or less were permitted a minimum side yard setback of five feet instead of the standard seven foot requirement.¹
- Although the adoption of the 1928 ordinance is recorded in the journal of County Commissioners, the text of the ordinance was not published in the journal of the Commissioners.
- On March 6, 1930 the County Commissioners repealed the 1928 Zoning Ordinance and reenacted the ordinance with amendments. Under the 1930 Zoning Ordinance a house could be built on a lot less than 5,000 square feet in size if the lot had more than 40 feet but less than 50 feet of street frontage. The buildable lot that could be less than 5,000 feet could also have a five-foot minimum side yard setback instead of a seven-foot side yard setback.²
- Although the adoption of the 1930 Zoning Ordinance is recorded in the journal of County Commissioners, the text of the ordinance was not published in the journal of the Commissioners.
- On July 21, 1932 the County Commissioners recognized that neither the 1928 Ordinance nor the 1930 Ordinance was published in the Commissioners' journal. This oversight was corrected. The Commissioners reaffirmed the action of March 6, 1928, by "approving, adopting, and establishing" the 1928 Zoning Ordinance in 1932. ***The reaffirmation of the 1928 Ordinance in 1932 was not considered by the Board of Appeals and the Circuit Court in the history cited below.***

¹ Section III (C)(1): "Each dwelling hereafter erected or altered in this zone shall occupy a lot with a minimum area of five thousand (5,000) square feet and a minimum width of fifty (50) feet at the front building line. No lot area shall be so reduced or diminished that the yards or open space shall be smaller than prescribed by this ordinance." Section VIII (3). "In the case of a lot or parcel of land having a width of forty (40) feet or less, and which is included in a plat of record at the time of the passage of this ordinance, there shall be a side yard on each side of a dwelling of not less than five (5) feet in width."

² Section III C (1): "Each dwelling hereafter erected in this zone shall occupy a lot with a minimum area of five thousand (5,000) square feet and minimum width of fifty (50) feet at the front building line, except as provided in Section VIII, 3. No lot area shall be so reduced or diminished that the yards or open spaces shall be smaller than prescribed by this ordinance." Section VIII (3): "In the case of a lot or parcel of land having a width of at least forty (40) feet but less than fifty (50) feet, and which is included in a plat or deed of record at the time of adoption of this ordinance, there shall be a side yard on each side of a dwelling of not less than five (5) feet in width and the provisions of Section III, C, 1, shall not apply to such lot or parcel."

- In 1990, the County Council adopted Zoning Text Amendment 9-002 allowing lots recorded before March 16, 1928 to be developed according to the standards established in the 1928 Zoning Ordinance:³

Section 59-B-5.3(a): a lot recorded before March 16, 1928, in the original Maryland-Washington Metropolitan District, must meet the development standards in the 1928 Zoning Ordinance...

- In May 2004 the Department of Permitting Services (DPS) issued an interpretation to reaffirm that the 1928 Ordinance referred to in §59-B-5.3(a) means the ordinance adopted in 1928 and not the ordinance adopted in 1930.

Selected Case History at the Board of Appeals and Circuit Court

- The practical application and confusion of the 1928 Zoning Ordinance and the 1930 Zoning Ordinance is evident in the Board of Appeals' opinions. On September 14, 1998 the Board of Appeals granted a variance to John and Alice Waksmunski, allowing them to build on their lot. Their lot was less than 5,000 square feet but was a buildable lot if the 1930 ordinance applied. *The dispute in the case was whether the Department of Permitting Services (DPS) committed an administrative error by not granting a building permit for a lot that was less than 5,000 square feet.* The Board of Appeals found, "...the introductory language of the later ordinance, which 'repeals and reenacts' the 1928 Zoning Ordinance, effectively eliminated the 1928 Ordinance and left the 1930 Ordinance in its stead." *The Board applied the 1930 Ordinance and granted the administrative appeal to allow the Waksmunskis to construct a house.*
- On August 29, 2006 the Board of Appeals decided the Duffy case by applying the 1928 Zoning Ordinance, not the 1930 Ordinance. A principal issue for the Board of Appeals was the side setback standard: Does the Duffy lot qualify for a five-foot side setback? The Duffys' house was set back five feet from the side yard. The Board of Appeals stated that the 1928 Zoning Ordinance is clear; the five-foot side yard applies only when the lot has a street frontage of 40 feet or less. The Duffys' street frontage was 42.5 feet; therefore, the lot did not fit within the exception. The Board of Appeals did not grant a variance from the side yard setback standard.
- The Duffy decision was appealed to the Circuit Court. The Duffys argued that the 1930 Zoning Ordinance should apply, just as the Board of Appeals applied that Zoning Ordinance in the Waksmunski case. The Court agreed that the

³ The ZTA in 1990 was the first time the 1928 Zoning Ordinance was mentioned in the current Zoning Ordinance.

Board of Appeals applied the wrong law. Under the 1930 Zoning Ordinance, the minimum setback for the Duffys' lot is five feet. Under the Court's order, a variance was unnecessary.

The Board of Appeals has based its decisions on both the 1928 ordinance and the 1930 ordinance. DPS resolved the ambiguity of which ordinance applied by issuing its own interpretation (interpretation states that the 1928 ordinance governs). The Circuit Court has resolved the issue in a manner that contradicts the interpretation of DPS. All parties are attempting to determine the intent of the Council. This ZTA provides the opportunity for the Council to express that intent for cases that arise in the future.

ANALYSIS

Generally, there are thousands of lots presently zoned R-60 or R-90 (the current zoning for most small lots in the County) that were platted prior to 1928. To obtain specific details (number of lots, lot widths, etc.) would entail researching each plat book (100+ plats per book) and each plat (dozens to hundreds of lots per plat), since there is currently no GIS information based on properties platted prior to 1928 or based on the width of street frontage.

GIS provided information on the number of R-60 and R-90 properties that are less than 5,000 square feet. Currently there are 16,097 (13.7% of total number of R-60 and R-90 properties) R-60 and R-90 lots less than 5,000 square feet in the County (There are a total of 116,655 R-60 and R-90 lots in the County). Again, we currently have no detailed information on the street frontage widths although generally, we know that thousands of lots in the down-county areas that are zoned R-60 and R-90 were originally recorded with 20-foot widths. In any case, the proposed ZTA would provide a clearer determination of the intent of Section 59-B-5.3(a).

RECOMMENDATION

Staff recommends approval of Zoning Text Amendment 07-02 as submitted.

Attachments

1. Zoning Text Amendment No. 07-02

ATTACHMENT 1

Zoning Text Amendment No: 07-02
Concerning: Buildable lots - Clarification
Draft No. & Date: 1 – 2/7/07
Introduced: February 13, 2007
Public Hearing: March 27, 2007; 1:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Praisner and Councilmembers Berliner, Leventhal & Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- clarifying text of the 1928 Zoning Ordinance; and
- generally amending the special provisions for conditions predating 1958.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-B-5 “SPECIAL PROVISIONS FOR CONDITIONS PREDATING
1958”
Section 59-B-5.3 “One-Family Dwelling”

*EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.
Double underlining indicates text that is added to the text
amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-B-5 is amended as follows:**

2 **DIVISION 59-B-5. SPECIAL PROVISIONS FOR CONDITIONS**
3 **PREDATING 1958.**

4 * * *

5 **59-B-5.3. One-family dwelling.**

6 Any one-family dwelling in a residential zone or agricultural zone that was built on
7 a lot legally recorded by deed or subdivision plat before June 1, 1958, is not a
8 nonconforming building. The dwelling may be altered, renovated, or enlarged, or
9 replaced by a new dwelling, under the zoning development standards in effect
10 when the lot was recorded, except that:

11 (a) a lot recorded before March 16, 1928, in the original Maryland-
12 Washington Metropolitan District, must meet the development
13 standards in the 1928 Zoning Ordinance;¹

14 (b) one-family dwellings and accessory structures on a lot legally
15 recorded by deed or
16 subdivision plat before June 1, 1958, in the Upper Montgomery
17 County Planning District must comply with the setback, yard, and
18 area coverage standards applicable to the lot in the 1956 Zoning
19 Ordinances for the Upper Montgomery Planning District;

¹ The 1928 Zoning Ordinance is attached to Section 59-B.

- 20 (c) the maximum building height and maximum building coverage in
21 effect when the building is altered, renovated, [or] enlarged, or
22 replaced by a new dwelling applies to the building; and
- 23 (d) an established building line setback must conform to the standards for
24 determining the established building line in effect for the lot when any
25 alteration, renovation, [or] enlargement, or replacement by a new
26 dwelling occurs. Any building permit issued before November 23,
27 1997 must conform to the development standards in effect when the
28 lot was recorded.

29 * * *

30

31 **Sec. 2. Attachment to Section 59-B:**

32 The 1928 Zoning Ordinance referred to in Section 59-B-5.3 (a)

33

34 Section 1 - DEFINITIONS

35 For the purpose of this ordinance certain terms and words are herewith defined as follows:-

36 Words used in the present tense include the future; words in the singular number include the plural number, and
37 words in the plural number include the singular number; the word "lot" includes the word "plot"; the word
38 "building" includes the word "structure"; the word "shall" is mandatory and not directory.

39 Any word not herein defined shall be construed as defined in the Building Code.

- 40 1. Accessory Building: A subordinate building located in and occupying not more than 30 per
41 cent of the rear yard of the main building, whose use is incidental to that of the main building,

- 42 and which does not exceed 15 feet in height above the ground level.
- 43 2. Alley: A public way designated as an alley on the subdivision record plat.
- 44 3. Apartment House: Dwelling occupied otherwise than as a single family or
- 45 semi-detached dwelling.
- 46 4. Boarding House: A building other than a hotel, where lodging and meals for five or
- 47 more persons are served for compensation.
- 48 5. Building: A structure having a roof supported by columns or walls for the shelter, support or
- 49 enclosure of persons, animals or chattels, and when separated by division walls from the
- 50 ground up each portion of such structure shall be deemed a separate building.
- 51 6. Building Line: A line beyond which property owners or others have no right to extend a
- 52 building or any part thereof.
- 53 7. Cellar: That portion of a building below the first floor joists, the floor of which is more than
- 54 one-half the clear ceiling height below the adjacent ground. Such a story may not be used for
- 55 habitation.
- 56 8. Commission: Maryland-National Capital Park and Planning Commission.
- 57 9. Court, Outer: An open, unoccupied space on the same lot with a building, opening upon a
- 58 street, alley, yard or set-back.
- 59 10. Curb Level: The mean level of the established curb in front of the building.
- 60 11. Depth of Rear Yard: The mean horizontal distance between the rear line of the building and
- 61 the center line of the alley, where an alley exists, otherwise the rear lot line.
- 62 12. Depth of Lot: The mean horizontal distance between the front lot line and the rear lot line.
- 63 13. District: That portion of the Maryland-Washington Metropolitan District located within
- 64 Montgomery County.
- 65 14. Dwelling, Single: A building constructed for occupancy by a single family.
- 66 15. Dwelling, Semi-detached: A building arranged and built to accommodate two families
- 67 separated by a common party wall between.

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- 68 16. Family: Any number of individuals living and cooking together on the premises as a single
69 housekeeping unit.
- 70 17. Garage, Private: A garage with capacity for not more than three steam or motor driven
71 vehicles, for storage only.
- 72 18. Garage, Public: Any building or premises used for housing or care of more than three steam or
73 motor driven vehicles, or where any such vehicles are equipped for operation, repaired or kept
74 for remuneration, hire or sale.
- 75 19. Height of Building: The vertical distance measured from the mean curb level to the level of the
76 highest point of the building.
- 77 20. Home Occupation: An occupation in connection with which there is used no display that will
78 indicate from the exterior that the building is being utilized in whole or in part for any purpose
79 other than that of a dwelling; in connection with which there is kept no stock in trade nor
80 commodity sold upon the premises, no person employed other than a member of the
81 immediate family residing in the premises, and no mechanical equipment used except such as
82 is permissible for purely domestic or household purposes.
- 83 21. Lot: Land occupied or to be occupied by a building and its accessory buildings and including
84 such open spaces as are required under this ordinance, and having its frontage upon a public
85 street.
- 86 22. Lot, Corner: A lot fronting on two or more streets intersecting at an angle of not more than one
87 hundred thirty-five (135) degrees.
- 88 23. Lot, Interior: A lot with frontage on but one street.
- 89 24. Lot, Through: A parcel extending through a block from one street to another.
- 90 25. Lot Lines: Lines bounding a lot.
- 91 26. Non-Conforming Use: A building or premises occupied and used for a purpose that does not
92 conform with the use regulations in the district in which it is located.
- 93 27. Stable, Private: A stable with a capacity of not more than four horses.
- 94 28. Stable, Public: A stable in which horses are kept for remuneration, hire or sale.

- 95 29. Story: That portion of the building included between the surface or any floor and the surface of
96 the floor next above it, or if there be no floor above it then the space between such floor, and
97 the ceiling above it, provided, that a cellar shall not be considered a story.
98 30. Street: A public thoroughfare not designated on the record plat as an alley.
99 31. Structural Alterations: Any change in the supporting members of a building, such as a bearing
100 walls, columns, beams or girders, excepting such alterations as may be required for the safety
101 of the building.
102 32. Yard Depth of Rear: The minimum horizontal distance between the rear line of a building,
103 other than of a building for accessory use, and the rear lot line or center of alley in case an
104 alley exists.
105 33. Yard Side: An open unoccupied space on the same lot with the building, between the building
106 and the side lot line and extending from the street line to the rear yard.
107 34. Zone: Areas within the District for which the regulations governing the use of buildings and
108 premises are the same.

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110 SECTION II – DISTRICT REGULATIONS
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112 For the purpose of this ordinance the District is hereby divided into five zones as follows:-

113 “A” Residence Zone.

114 “B” Residence Zone.

115 “C” Residence Zone.

116 “D” Commercial Zone.

117 “E” Industrial Zone.

118 The boundaries of said zones shall be as shown upon the map attached hereto and made a part of this
119 ordinance designated as “Zoning Map” and said map and all notations, references and other data shown
120 thereon is by this reference made a part hereof to the same extent as if the information set forth on said map
121 were fully described and incorporated herein.

SECTION III – “A” RESIDENCE ZONE

(A) Use Regulations: Unless hereinafter provided, no building or premises shall be used and no building shall be hereafter erected or altered, except for one or more of the following uses:

1. Single dwellings

2. Churches

3. Public Schools

4. Libraries

5. Farms, truck gardens or nurseries

6. Private clubs, hospitals, sanitariums and institutions of an educational, philanthropic, or eleemosynary nature, gravel pits and stone quarries, subject to the approval of the Commission, and with written consent of the owners of 75 per cent of the property within 200 feet of the propose establishment.

7. Accessory buildings (see Section VIII, 2) and uses incident to any of the above uses when located on the same lot and not involving the conduct of a retail business, and including:-

(a) One private garage or private stable when located not less than sixty (60) feet from the front lot line, not less than thirty (30) feet from the side street in the case of a corner lot or when built as a part of the main building.

(b) Home occupations engaged in by the occupants of a dwelling.

(c) Professional office of a physician, surgeon, dentist, musician, artist or similar vocation, when situated in the same building used by such practitioner as his or her private dwelling, provided that no name plate shall be displayed exceeding one square foot in area and containing the name and occupation of the resident of the premises.

(d) A sign not more than six (6) square feet in area appertaining to the lease, hire or sale of the building or premises on which such sign is displayed. A renewable permit for one year periods, for the erection and maintenance of a larger sign for real estate purposes, may be

148 issued with approval of the Commission.

149 (B) Height Regulations: In the "A" Residence Zone no building shall exceed a height of forty
150 (40) feet or three (3) stories, except as provided in Section VIII, 1 and 2.

151 (C) Area Regulations: In the "A" Residence Zone the minimum dimensions of yards and the
152 minimum lot area per family, except as provided in Section VIII shall be as follows:-

153 1. Lot area per family: Each dwelling hereafter erected or altered in this zone shall
154 occupy a lot with a minimum area of five thousand (5,000) square feet and a
155 minimum width of fifty (50) feet at the front building line. No lot area shall be so
156 reduced or diminished that the yards or open spaces shall be smaller than prescribed
157 by this ordinance.

158 2. Building Line: There shall be a setback line of not less than twenty-five (25) feet,
159 provided that, when the majority of buildings built on one side of a street between
160 two intersecting streets at the time of the passage of this ordinance have been built
161 with a minimum setback of more or less than twenty-five (25) feet from the street
162 property line, no building hereafter erected or altered shall project beyond the
163 minimum setback line so established; provided that no building shall be required by
164 this Ordinance to set back more than forty (40) feet in any case, and provided
165 further that this regulation shall not be interpreted as to reduce the buildable width
166 of a corner lot, facing an intersecting street and which is separate and distinct from
167 adjacent lots and is included in a plat of record at the time of passage of this
168 ordinance, to less than twenty four (24) feet.

169 3. Side Yard: There shall be a side yard of not less than seven (7) feet in width on
170 each side of a dwelling, except as provided in Section VIII.

171 4. Rear Yard: There shall be a rear yard, having a minimum depth of twenty (20)
172 feet except as provided in Section VIII, 4.

173 5. Accessory Building: An Accessory building not exceeding fifteen (15) feet in
174 height may occupy not more than thirty-five (35) per cent of the rear yard, except as
175 provided in Section VIII, 2.

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SECTION IV – “B” RESIDENCE ZONE

(A) Use Regulations: Unless hereinafter provided, no building or premises shall be used and no building shall be hereafter erected or altered, except for one or more of the following uses:

(B) Any use permitted in the “A” Residence Zone.

- 1. Semi-detached dwellings.

(C) Height Regulations- Same as for “A” Residence Zone, Section III, (B).

(D) Area Regulations- Same as for “A” Residence Zone, Section III, (C), except that in the case of semi-detached dwellings the minimum lot area per family shall be two thousand five hundred (2,500) square feet, with one side yard eight (8) or more in width.

SECTION V - “C” RESIDENCE ZONE

(A) Use Regulations- Unless hereinafter provided no building or premises shall be used and no building shall be hereafter erected or altered, except for one or more of the following uses:

- 1. Any use permitted in the “B” Residence Zone.
- 2. Apartments and flats.
- 3. Boarding houses.
- 4. Public garages for storage purposes only, and where no repair facilities are maintained, when located not less than sixty (60) feet from the street line, thirty (30) feet from the side street line in the case of a corner lot and subject to Proviso 2 of Section VI.

(B) Height Regulations: No building shall exceed a height of seventy-two (72) feet and six (6) stories, except as provided in Section VIII, 2.

198 (C) Area Regulations: Same as for “A” Residence Zone, Section IV, (C) except that in the
199 case of apartments and flats the minimum lot area per family shall be six hundred twenty five (625)
200 square feet and each side yard shall be increased by two (2) inches for each foot of building height
201 above forty (40) feet.

202 SECTION VI – “D” COMMERCIAL ZONE

203 (A) Use Regulations: Unless otherwise provided in this ordinance all buildings and premises
204 may be used for any use permitted in the “C” Residence Zone, Section V, (A), or for any other use
205 except the following:

- 206 1. Bakery employing more than 5 persons (see proviso 2 below).
- 207 2. Blacksmith or horseshoeing establishment.
- 208 3. Bottling works.
- 209 4. Carting, express or hauling yard, storage or fuel yard (see proviso 2 below).
- 210 5. Contractor’s plant or storage thereof.
- 211 6. Cooperage.
- 212 7. Ice Plant or storage house for more than ten (10) tons capacity.
- 213 8. Laundry employing more than 5 persons (see proviso 2 below).
- 214 9. Lumber yard.
- 215 10. Machine shop employing more than five (5) persons.
- 216 11. Public garage or public stable (see proviso 2 below).
- 217 12. Stone Yard.
- 218 13. Storage or baling of scrap, paper rags or junk.

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- 219 14. Uses excluded from the “E” Industrial Zone.
- 220 15. Any kind of manufacture other than manufacture clearly incidental to a retail business
221 conducted on the premises, or any manufacturing or treatment which would constitute a nuisance.
- 222 16. Gasoline or oil filling stations (see proviso 2 below).
- 223 17. Undertaking establishments or funeral parlors (see proviso 2 below).

224 Proviso 1: Printing shops and the publishing of newspapers may be permitted in the “D”
225 Commercial Zone.

226 Proviso 2: A bakery or laundry employing more than 5 persons, a fuel yard, a gasoline
227 or oil filling; station, a milk distributing station, undertaking establishment or funeral parlor,
228 a public garage, machine shop, or a service station adjoining an establishment for the sale of
229 new automobiles and operated in connection therewith may be established or erected in the
230 “D” Commercial Zone with approval of the Commission and the written consents of the
231 owners of 75 per cent of the property within 200 feet of the proposed establishment.
232 Provided further, that if such establishment fronts on a public alley and no part of it is
233 located in a building any portion of which lies less than 50 feet back from any building line,
234 consents of the owners of two-thirds of the property within 90 feet of the proposed
235 establishment shall be required.

236 In computing the area of consents required under this regulation, so much of the area of
237 all property as is used as a bakery, gasoline filling station, laundry, milk distributing station,
238 public garage or stable, shall be counted as consenting.

239 With the approval of the Commission, car barns, electric sub-stations and other public
240 utility uses, not including steam power plants, may be erected established or extended in the
241 “D” Commercial Zone, when deemed necessary by the Commission to the public
242 convenience and welfare.

243 (B) Height Regulations: In the "D" Commercial Zone no building shall exceed a height
244 of seventy-two (72) feet or six (6) stories, except as provided in Section VIII, 2.

245 (C) Area Regulations: For property occupied for residential use in the "D" Commercial
246 Zone, the minimum dimensions of yards and the minimum lot area per family, except as
247 provided in Section VIII, 3, shall be as follows:

248 (1) Outer Courts: The least dimension of an outer court shall be not less than five (5)
249 feet, nor less than two (2) inches for each foot of height of such court.

250 (2) Nothing herein contained shall prevent the use of the entire lot between the front
251 building line and the rear lot line, for the uses, other than residential, that are permitted in the
252 zone.

253 SECTION VII – "E" INDUSTRIAL ZONE

254 (A) Use Regulations: In the "E" Industrial Zone buildings and premises may be used
255 for any purpose whatsoever, provided however, that no building shall be erected or premises
256 used for any of the following uses until and unless the location of such use shall have been
257 approved by the Commission after public notice and hearing.

- 258 1. Abattoirs.
- 259 2. Acetylene gas manufacture.
- 260 3. Ammonia bleaching powder or chlorine manufacture.
- 261 4. Arsenal.
- 262 5. Asphalt manufacture or refining.
- 263 6. Blast Furnace.
- 264 7. Boiler works.
- 265 8. Brick, tile, or terra cotta manufacture.
- 266 9. Candle manufacture.
- 267 10. Celluloid manufacture or treatment.

- 268 11. Coke ovens.
- 269 12. Creosote manufacture or treatment.
- 270 13. Disinfectants manufacture.
- 271 14. Distillation of bones, coal or wood.
- 272 15. Dyestuff manufacture.
- 273 16. Exterminators and insect poisons manufacture.
- 274 17. Emery cloth and sandpaper manufacture.
- 275 18. Fat rendering.
- 276 19. Fertilizer manufacture.
- 277 20. Forge Plant.
- 278 21. Gas (heating or illuminating) manufacture.
- 279 22. Glue, size or gelatin manufacture.
- 280 23. Gunpowder manufacture or storage.
- 281 24. Fireworks or explosives manufacture or storage.
- 282 25. Incineration or reduction of dead animals, offal or garbage.
- 283 26. Lamp black manufacture.
- 284 27. Lime, cement or plaster of Paris manufacture.
- 285 28. Match manufacture.
- 286 29. Oil cloth or linoleum manufacture.
- 287 30. Oiled, rubber or leather goods manufacture.
- 288 31. Ore reduction.
- 289 32. Paint, oil, shellac, turpentine or varnish manufacture.
- 290 33. Paper and pulp manufacture.
- 291 34. Petroleum refining or storage.
- 292 35. Potash refining.
- 293 36. Printing ink manufacture.
- 294 37. Pyroxylin manufacture.
- 295 38. Railroad yard or roundhouse.

- 296 39. Rock Crusher.
- 297 40. Rolling mill.
- 298 41. Rubber or gutta percha manufacture or treatment.
- 299 42. Salt works.
- 300 43. Sauerkraut manufacture.
- 301 44. Sausage manufacture.
- 302 45. Saw mill.
- 303 46. Ship yard.
- 304 47. Shoe blacking manufacture.
- 305 48. Smelting of iron.
- 306 49. Soap manufacture.
- 307 50. Soda and compound manufacture.
- 308 51. Stockyards.
- 309 52. Stone mill or quarry.
- 310 53. Stove polish manufacture.
- 311 54. Sulphuric, nitric, or hydrochloric acid manufacture.
- 312 55. Tallow, grease or lard manufacture or refining.
- 313 56. Tanning, curing or storage of leather, raw hides or skins.
- 314 57. Tar distillation or manufacture.
- 315 58. Tar roofing or tar waterproofing manufacture.
- 316 59. Tobacco (chewing) manufacture or treatment.
- 317 60. Vinegar manufacture.
- 318 61. Wood pulling and scouring.
- 319 62. Yeast plant.
- 320 63. Such uses as, in the opinion of the Commission may become so noxious or
- 321 offensive by reason of the emission of odor, dust, smoke, gas or noise as to justify exclusion
- 322 from the "B" Industrial Zone.
- 323 (B) Height Regulations: Same as for "D" Commercial Zone, Section VI (B).

324 (C) Area Regulations: Same as for “D” Commercial Zone, Section VI, (C).

325
326 SECTION VIII - HEIGHT AND AREA EXCEPTIONS AND GENERAL REGULATIONS

327
328 Height and area requirements shall be subject to the following exceptions and
329 regulations:

330 1. In any residential zone wherein are permitted public and semi-public buildings,
331 hospitals, sanitariums or schools, such buildings may be erected to a height not exceeding
332 seventy-two (72) feet, when set back from all lot lines not less than one foot for each foot
333 such building exceeds the height restriction for the zone in which it is located, this increased
334 set back to be in addition to the required side yard for such zone.

335 2. Chimneys, towers, tanks, penthouses or necessary mechanical appurtenances may
336 be erected to their required height. An accessory building may be built to a height of two
337 stories to provide quarters for servants employed on the premises.

338 3. In the case of a lot or parcel of land having a width of forty (40) feet or less, and
339 which is included in a plat of record at the time of the passage of this ordinance, there shall
340 be a side yard on each side of a dwelling of not less than five (5) feet in width.

341 4. Rear yard requirements are waived in respect to a building built on a lot running
342 through from street to street.

343 5. Every part of a required yard or court shall be open and unobstructed from its
344 lowest point to the sky, except that open porches, fire escapes, open stairways and chimneys
345 may be permitted by the Building Inspector where same are so placed as not to obstruct light
346 and ventilation.

347 6. Steps and uninclosed porches may encroach on the front building line not to exceed
348 nine (9) feet and shall not exceed one story in height.

352 SECTION IX – CERTIFICATE OF OCCUPANCY AND COMPLIANCE

353
354 No premises shall be occupied or used and no building now or hereafter erected or altered
355 shall be occupied, used or changed in use until a certificate of occupancy and compliance shall have
356 been issued by the Building Inspector, to the effect that the building or proposed use of a building, or
357 premises, complies with all building and health laws and ordinances applicable to the premises and
358 with the provisions of these regulations.

359 Certificates of occupancy and compliance shall be applied for coincident with the application
360 for a building permit and shall be issued within ten (10) days after the erection or alteration of such
361 buildings shall have been completed in conformity with the provisions of these regulations. A record
362 of all certificates shall be kept on file in the office of the Building Inspector and copies shall be
363 furnished, on request, to any person having a proprietary or tenancy interest in the building affected.
364 No fee shall be charged for original certificate applied for coincident with the application for a
365 building permit; for all other certificates or for copies of any original certificates there shall be a
366 charge of one dollar each.

367 No permit for excavation for any building shall be issued before application has been made
368 for a certificate of occupancy and compliance.

369
370 SECTION X – PLATS

371
372 All applications for building permits shall be accompanied by a plat drawn to scale showing
373 the actual dimension of the lot to be built upon, the size of the building to be erected, and such other
374 information as may be necessary to provide for the enforcement of these regulations. An accurate and
375 complete record of such applications and plats shall be kept in the office of the Building Inspector.

376 No yard, court or other open space provided about any building for the purpose of complying
377 with the provisions of these regulations shall again be used as a yard, court or other open space for
378 another building.

380 SECTION XI – INTERPRETATION, PURPOSE AND CONFLICT

381
382 In interpreting and applying this ordinance, the requirements contained herein are declared to
383 be the minimum requirements for the protection of the health, morals, safety or welfare. This
384 ordinance shall not be deemed to interfere with or abrogate or annul or otherwise affect in any manner
385 whatsoever, any easements, covenants, or other agreements between parties provided, however, that
386 where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the
387 height of buildings or required larger open spaces than are imposed or required by other ordinances,
388 rules, regulations or permits, or by easements, covenants, or agreements, the provisions of this
389 ordinance shall control.

390
391 SECTION XII - BOUNDARIES OF ZONES

392
393 Where uncertainty exists with respect to the boundaries of the various zones shown on the
394 maps accompanying and made a part of this ordinance, the following rules shall apply:

395 (A) The zone boundaries are either streets or alleys, unless otherwise shown, and where the
396 designation on the maps accompanying and made a part of this ordinance, indicating the various zones
397 are approximately bounded by street or alley line, said street or alley shall be construed to be the
398 boundary of such zones.

399 (B) Where the zone boundaries are not otherwise indicated and where the property has been or
400 may hereafter be divided into blocks and lots, the zone boundaries shall be construed to be lot lines,
401 and where the designations on the maps accompanying and made a part of this ordinance indicating
402 the various zones are approximately bounded by lot lines, said lot lines shall be construed to be the
403 boundary of such zones unless said boundaries are otherwise indicated on the maps.

404 (C) Whenever a portion of any zone is indicated upon the zoning map as a strip paralleling an
405 opened or unopened street, the width of this strip, unless delimited on said map by lot lines or
406 otherwise, shall be assumed to be 120 feet measured at right angles from the line of the street to which
407 it is parallel and adjacent.

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SECTION XIII – VIOLATIONS, MISDEMEANORS

The violation of any section of this ordinance is hereby declared to be a misdemeanor punishable as provided in Section 18 of Chapter 448 of the Laws of Maryland of 1927. In the case of continuing acts each day’s violation is hereby declared to be a separate offense hereunder.

SECTION 15 – CHANGES AND AMENDMENTS

The right to alter, amend or repeal this ordinance is hereby expressly reserved.

Sec. 3. Effective date. This ordinance takes effect immediately on the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council