

ORDINANCE NO. ORD-09-08

**AN ORDINANCE TO AMEND CERTAIN PROVISIONS TO THE
ZONING ORDINANCE FOR WASHINGTON COUNTY, MARYLAND
AND TO REENACT SAID ORDINANCE WITH CHANGES RELATING
TO ITS TEXT**

(RZ-09-001)

RECITALS

The Board of County Commissioners of Washington County, Maryland (the "Board") adopted the Zoning Ordinance for Washington County, Maryland (the "Ordinance") on January 23, 1973, and it became effective on April 2, 1973.

The Board filed an application requesting that amendments be made to the text of the Ordinance. The amendments will update, correct and clarify language pertaining to various aspects of zoning regulations.

The Board believes it to be in the best interests of the citizens of Washington County for the amendments to be enacted.

The Washington County Planning Commission held a public meeting for the purpose of taking testimony on the proposed amendments on March 16, 2009, pursuant to public notice duly given.

The Board held a public hearing for the purpose of taking testimony on the proposed amendments on June 15, 2009, pursuant to notice duly given.

Following the hearings, the Board considered the recommendations of the Planning Commission and the Planning Department staff, and materials received as part of the public hearings. The Board conducted this review in public sessions.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that certain provisions of the Zoning Ordinance, as amended, be further amended as follows:

RZ-09-001

- (1) **ARTICLE 3 - DISTRICTS ESTABLISHED; ZONING MAPS, DISTRICT BOUNDARIES; LAND USE REGULATIONS (RURAL AREA USES) is amended as follows:**

Section 3.3 Land Use Regulations is amended as follows:
Table No. 3.3(1), is amended and shall read as follows:

Table No. 3.3(1)
TABLE OF LAND USE REGULATIONS
 (RURAL AREA USES)

Table No. 3.3(1), Section A. Accessory is amended and shall read as follows:

LAND USES	A(R)	EC	P	RV	RB	IM	Intensity of Use
A. Accessory							
Guest house in an accessory building	SE	SE	SE	SE	N	N	N/A
Private stables as defined in Article 28A shall be subject to the requirements set forth in Article 4 Section 4.13	A	A	A	A	A	N	N/A
Swimming pools, tennis and other similar courts and other recreational facilities, when accessory to a residence	A	A	A	A	A	N	N/A
Uses and structures customarily accessory and incidental to any principal permitted use or special exception, including business signs pertaining to "use on the premises" (provided, that such signs are located as regulated in Section 22.2.), and a single-family dwelling unit in the same building with a principal use	A	A	A	A	A	A	N/A

Table No. 3.3(1), Section J. Housing is amended and shall read as follows:

LAND USES	A(R)	EC	P	RV	RB	IM	Intensity of Use
J. Housing							
Dwelling unit in conjunction with a principal non-residential use	SE	SE	SE	SE	P	N	LOW
Dwellings, semi-detached	SE	SE	SE	P	N	N	N/A
Dwellings, single family	P	P	P	P	N	N	N/A
Dwellings, two-family	P	P	P	P	N	N	N/A
Home, occupation	A	A	A	A	N	N	N/A
Home, resident business	SE	SE	SE	SE	N	N	N/A
Mobile Homes	P	P	P	N	N	N	N/A
Model Homes	P	P	P	P	N	N	N/A
Temporary residential sales office	P	P	P	P	N	N	N/A

(2) **ARTICLE 4 - GENERAL PROVISIONS is amended as follows:**

Section 4.5 Buildable Lots is amended and shall read as follows:

Section 4.5 Buildable Lots

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this Ordinance and which was established or recorded at the time shall be deemed a buildable lot. Nothing shall prohibit the erection of a single family dwelling on a lot of record in an HI district prior to its designation as an HI-1 district.

Any lot with a structure which was destroyed between June 1, 1972 and April 2, 1973 and within the boundaries of Federal Public Law 91-664, shall be deemed a buildable lot within the provisions of this Ordinance.

Except as otherwise provided for in this ordinance, all lots, parcels or tracts either created prior to or after the adoption of this ordinance which are located in A, C, A(R), EC, P, RV, RB-E, RB-N, RR, RS, RU districts shall be limited to one principal permitted residential use on a lot, parcel, or tract.

Section 4.10 Accessory Structures - Rear Yard Requirements is amended as follows:

Section 4.10 Accessory Structures and Uses

- (a) Generally. Except as otherwise restricted by this Ordinance, customary accessory structures and uses shall be permitted in any district in connection with the principal permitted use within such district.
- (b) Use limitations. In addition to the other requirements of this Ordinance, an accessory use shall not be permitted unless it strictly complies with the following:
 - 1. No accessory structure shall be used for living quarters, the storage of contractors' equipment, the storage of animals, or the conducting of any business unless otherwise provided in this Ordinance.
 - 2. No accessory use or structure shall be established on any lot prior to substantial completion of the construction of the principal structure.
 - 3. No accessory use or structure, except fences, shall be located within any recorded easement area.
 - 4. Any detached accessory structure shall be separated from other principal and accessory structures in compliance with the Washington County Building Code.
 - 5. In all districts wherein single-family and two-family dwellings are permitted, accessory structures shall not be located closer to

public or private road right-of-way or rear lot line than the side yard requirements for a single-family or two-family dwelling in that district, except as provided in Section 23.5(b).

Section 4.18 Nursery Schools and Child Care Centers is amended shall read as follows:

Section 4.18 Nursery Schools and Child Care Centers

- (a) Registered nursery schools or child care centers shall be considered an incidental accessory use for any business located in the BT, BL, BG, IT, IR, IG, AP, PB, PI, "PUD" and HI districts. Nursery schools and child care centers permitted as accessory uses under this section shall be for the use of employees and their families of the business. When it is necessary to construct additional buildings to house accessory day care facilities, the Zoning Administrator shall determine, based on the impact on the entire site, whether a site plan meeting the requirements of Section 4.11 of the Washington County Zoning Ordinance shall be submitted.
- (b) Registered nursery or child care centers that are operated by a church or other place of worship shall be considered an incidental accessory use provided the child care service is housed within the primary structure related to the place of worship. An affidavit attesting to the location, hours of operation, location of signage, and meeting the parking requirements for the day care facility shall be submitted by the applicant as part of the zoning certification application.

Section 4.22 Commercial Communication Towers, Subsection A.6. is amended and shall read as follows:

Section 4.22 Commercial Communication Towers

A. Design requirements

- 6. All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of comparable equipment for other carriers. An application for a tower shall be accompanied by an affidavit from the applicant stating that one ten (10) foot space on the proposed tower will be specifically reserved for use by the County, and that other spaces will be made available to other future users, when possible.

- 12. (a) A Commercial Communication Tower that is out of service for a continuous six (6) month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the Owner of the Tower that is deemed to be abandoned. The Owner shall have

the right to respond in writing to the Notice of Abandonment setting forth the reasons for operation difficulty and providing a reasonable timeframe for correction action, within thirty (30) days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the Tower has not been abandoned.

- (b) If the Tower is determined to be abandoned, the Owner of the Tower shall remove the Tower and all related equipment at the Owner's sole expense within three (3) months of the Date of Notice of Abandonment. If the Owner fails to remove the Tower and related equipment, the Administrator may pursue legal action to have the Tower removed at the Owner's expense.

(3) **ARTICLE 5A - "A(R)" AGRICULTURAL (RURAL) DISTRICT - is amended as follows:**

Section 5A.5 Residential Lot Size and Bulk Dimensions is amended and shall read as follows:

Section 5A.5 Residential Lot Size and Bulk Dimensions

	Lot Area	Lot Width	Lot Area/Family	Front Yard	Side Yard	Rear Yard	Height
Dwelling, Single Family	40,000 sq. ft.	100 ft.	40,000 sq. ft.	40 ft in.	15 ft.	50 ft.	40 ft.
Dwelling, Two-Family	40,000 sq. ft.	100 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.
Dwelling, Semi-Detached**	20,000 sq. ft.	50 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.

** Semi-detached dwellings are special exception uses in this district and require Board of Zoning Appeals approval.

Section 5A.7 Special Provisions is amended and shall read as follows:

Section 5A.7 Special Provisions

1. New development adjacent to existing Industrial Mineral (IM) zoning districts shall have a setback of 200 feet from all shared property lines.
2. Developments opting to use the clustering provision outlined in Article 22, Division VIII of this Ordinance may reduce side yard setbacks to a minimum of 15 feet from adjacent property lines created by the new development.
3. Development that occurs within the Airport Overlay Area as designated in the Comprehensive Plan shall have a density requirement of one (1) dwelling unit per fifty (50) acres of land owned. No lots under Section 5A.4 shall be permitted in the Airport Overlay Area.

4. Side yard setbacks for residential use lots shall be a minimum of 50 ft. for lots five (5) acres or greater in size.
5. Side yard setbacks for residential use lots that are contiguous to parcels with permanent easements or parcels in areas designated as priority agricultural preservation areas or transferable development rights sending areas shall have minimum setbacks of 50 feet.
6. The Planning Commission may increase minimum setbacks up to 50 feet for properties adjacent to parcels that are being actively farmed or parcels with an Agricultural district designation.

(4) ARTICLE 5B - "EC" ENVIRONMENTAL CONSERVATION DISTRICT is amended as follows:

Section 5B.5 Residential Lot Size and Bulk Dimensions is amended and shall read as follows:

	Lot Area	Lot Width	Lot Area/Family	Front Yard	Side Yard	Rear Yard	Height
Dwelling, Single Family	40,000 sq. ft.	100 ft.	40,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.
Dwelling, Two-Family	40,000 sq. ft.	100 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.
Dwelling, Semi-Detached**	20,000 sq. ft.	50 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.

** Semi-detached dwellings are special exception uses in this district and require Board of Zoning Appeals approval.

Section 5B.7 Special Provisions is amended and shall read as follows:

Section 5B.7 Special Provisions

1. New development adjacent to existing Industrial Mineral (IM) zoning districts shall have a setback of 200 feet from all shared property lines.
2. Developments opting to use the clustering provision outlined in Article 22, Division VIII of this Ordinance may reduce side yard setbacks to a minimum of 15 feet from adjacent property lines created by the new development.
3. Side yard setbacks for residential use lots shall be a minimum of 50 ft. for lots twenty (20) acres or greater in size.
4. Side yard setbacks for residential use lots that are contiguous to parcels with permanent easements or parcels in areas designated as priority agricultural preservation areas or transferable development rights sending areas shall have minimum setbacks of 50 feet.
5. The Planning Commission may increase minimum setbacks up to 50 feet for properties adjacent to parcels that are being actively farmed or parcels with an Agricultural district designation.

(5) **ARTICLE 5C - "P" PRESERVATION DISTRICT is amended as follows:**

Section 5C.5 Residential Lot Size and Bulk Dimensions is amended and shall read as follows:

Section 5C.5 Residential Lot Size and Bulk Dimensions

	Lot Area	Lot Width	Lot Area/Family	Front Yard	Side Yard	Rear Yard	Height
Dwelling, Single Family	40,000 sq. ft.	100 ft.	40,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.
Dwelling, Two-Family	40,000 sq. ft.	100 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.
Dwelling, Semi-Detached**	20,000 sq. ft.	50 ft.	20,000 sq. ft.	40 ft.	15 ft.	50 ft.	40 ft.

* Semi-detached dwellings are special exception uses in this district and require Board of Zoning Appeals approval.

Section 5C.7 Special Provisions is amended and shall read as follows:

Section 5C.7 Special Provisions

1. New development adjacent to existing Industrial Mineral (IM) zoning district shall have a setback of 200 feet from all shared property lines.
2. Developments opting to use the clustering provision outlined in Article 22 Division VIII of this Ordinance may reduce side yard setbacks to a minimum of 15 feet from adjacent property lines created by the new development.
3. Side yard setbacks for residential use lots shall be minimum of 50 ft. for lots thirty (30) acres or greater in size.
4. Side yard setbacks for residential use lots that are contiguous to parcels with permanent easements or parcels in areas designated as priority agricultural preservation areas or transferable development rights sending areas shall have minimum setbacks of 50 feet.
5. The Planning Commission may increase minimum setbacks up to 50 feet for properties adjacent to parcels that are being actively farmed or parcels with an Agricultural district designation.

(6) **ARTICLE 5D - "RV" RURAL VILLAGE DISTRICT is amended as follows:**

Section 5D.3 Dimensional Requirements is amended as follows:
Section 5D.3(a)3. is amended and shall read as follows:

Section 5D.3 Dimensional Requirements

- (a) RESIDENTIAL USES

3. SIDE YARD SETBACKS: Side yard setbacks shall not be less than 8 feet.

- (7) **ARTICLE 23 - EXCEPTIONS AND MODIFICATIONS** is amended as follows:

Section 23.6 Exception - Minimum Distance from a Single-Story Utility or Storage Shed is amended as follows:

Section 23.6 Exception - Minimum Distance from a Single-Story Utility or Storage Shed

The requirements of Section 23.5 notwithstanding, the minimum distance to a lot line in any District from a single-story utility or storage shed not exceeding 100 square feet shall be eight (8) feet.

- (8) **ARTICLE 28A- DEFINITIONS** is amended as follows:

The following definitions are added, amended, or deleted as follows:

*The definition of **Building, Height of** is DELETED in its entirety and the following language shall be inserted in its place:*

Building, Height of:

The vertical distance from grade plane to the average height of the highest roof surface. In the case of sloped roofs (such as a hip or gable roof) an average height would be used as the upper point of measurement rather than the eave or ridge line. The average height of sloped roofs shall be the mid-point between the roof eave and the roof ridge, regardless of the shape of the roof.

*The definition of **CEMETERY** is ADDED and shall read as follows:*

Cemetery:

Property used for interring the dead. Such facilities may be considered an accessory use when operated in conjunction with a funeral home or church.

*The definition of **CREMATORIES** is AMENDED and shall read as follows:*

Crematories:

Facilities designed for the cremation of human and animal bodies. Such facilities are considered as an accessory use when operated in conjunction with a funeral home.

*The definition of **FRONTAGE** is DELETED.*

*The definition of **GRADE** is ADDED and shall read as follows:*

Grade:

The finished ground level at the exterior surface of a building or structure.

*The definition of **GRADE PLANE** is ADDED and shall read as follows:*

Grade Plane:

A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building a point six (6) feet from the building.

*The definition of **LOT** is AMENDED and shall read as follows:*

Lot:

An identified tract of land occupied or intended to be occupied by a principal building and its accessory buildings and uses, including all open spaces required by this Ordinance

- A. Lot Area, Gross: The total area in square feet circumscribed by the lot lines of a lot.
- B. Lot Area, Net: The gross lot area except when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way. In such cases, the lot boundary, for purposes of computing the lot area, shall be the street right-of-way line and the net lot area shall be the gross lot area less the area within the public right-of-way.
- C. Lot, Corner: A lot abutting on two or more streets at their intersection where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees. A lot with frontage on a curved street that approximates the shape of a triangle or semi-circle shall also be considered a corner lot.
- D. Lot Frontage: The front of a lot shall be construed to be the portion of the lot nearest a public street or public right-of-way. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as required herein, except that not more than one (1) rear yard may be required.
- E. Lot Measurements:
 - 1. Depth is the average horizontal distance between the front lot line and the rear lot line.
 - 2. Width shall mean the horizontal distance between the side lot lines measured at the mid-point of the side lot lines.
- F. Lot, Panhandle: A polygonal shaped lot with the appearance of a "pan" or "flag and staff" in which the handle is most often used as the point of access to a street or road. The "handle," when less than the minimum width for a

building lot in the Zoning District where it is to be located, is not to be used in computing the minimum area required.

- G. Lot of Record: A lot which is part of a subdivision recorded in the office of the Clerk of Circuit Court of Washington County or a lot or parcel described by metes and bounds, the description of which has been so recorded.
- H. Lot, Reverse Frontage: A through lot where one of the frontages abuts a public street or right-of-way but there is no access.
- I. Lot, Through (also known as Double Frontage): A lot having its front and rear lot lines abutting a public street or right-of-way.

*The definition of **OUTDOOR/RECREATIONAL OUTFITTER** is ADDED and shall read as follows:*

Outdoor/Recreational Outfitter:

A company or individual who provides equipment, supplies, and/or guidance for outdoor and recreational activities such as camping, hunting, fishing, or boating.

*The definition of **YARD MEASUREMENTS** is AMENDED and shall read as follows:*

Yard Measurements:

- A. Front yard: Depth of required front yards shall be measured from the edge of the prescribed, existing, or dedicated future rights of way, at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. With a panhandle lot, the front of the lot shall be construed to be the portion of the body of the lot nearest a public street or public right-of-way, but not from the line where the "handle" meets with the public street or road.
- B. Rear Yard: Depth of required rear yards shall be measured at right angles to all rear lot lines joining the foremost points of the side lot lines. In the case of through lot and reversed frontage corner lots, there will be no rear yard. After establishing the front yard on all street frontages, the remaining yards are measured as side yards.
- C. Side Yard: Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

*The definition of **YARD TYPES** is AMENDED and shall read as follows:*

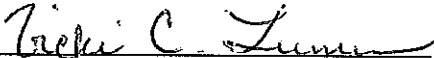
Yard Types:

- A. Front yard: A yard extending across the frontage of the lot between inner side yard lines.

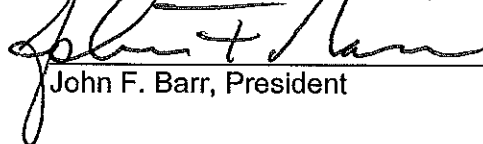
- B. Rear yard: A yard extending across the rear of the lot between inner side yard lines.
- C. Side yard: A yard extending from the rear line of the required front yard to the rear lot line.
- D. Buffer yard: A yard between any use and the property line required for open space. A buffer yard is planted with grass and other vegetation as required pursuant to site plan review and is maintained free of structures, storage of materials, and parking of vehicles. Any proposed access lane in the buffer yard shall be subject to Planning Commission review and approval.

Adopted and effective this 4th day of August, 2009.

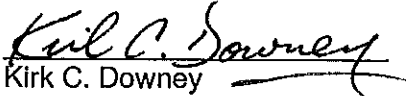
ATTEST:


Vicki C. Lumm, Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND


John F. Barr, President

Approved as to legal
sufficiency:


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