

Corrected Copy 11/17/06

Ordinance No: 15-82

Zoning Text Amendment No: 06-08

Concerning: Accessory Buildings – height
lot coverage, and setbacks

Draft No. & Date: 2 – 9/19/06

Introduced: March 21, 2006

Public Hearing: April 25, 2006; 1:30 PM

Adopted: September 19, 2006

Effective: October 9, 2006

**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: Councilmember Praisner

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

- reducing the allowable rear yard coverage [and maximum height] of an accessory building in certain zones except for small lots in the Town of Garret Park;
- reducing the allowable maximum height of an accessory building in certain zones;
- increasing the minimum setback requirement for an accessory building under certain circumstances; [[and]]
- providing for the continuation of existing accessory buildings as conforming buildings; and
- generally amending accessory building standards in certain zones.

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

[[DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”

Section 59-A-2.1 “Definitions”]]

DIVISION 59-C-1 “RESIDENTIAL ZONES, ONE-FAMILY”

Section 59-C-1.32 “Development standards”

[[DIVISION 59-C-9 “AGRICULTURAL ZONES”

Section 59-C-9.3 “Land uses”

Section 59-C-9.4 “Development standards”]]

DIVISION 59-C-18 “Overlay Zones”

Section 59-C-18.113 “Regulations”

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.

OPINION

Zoning Text Amendment No. 06-08 was introduced on March 21, 2006 for the purpose of:

- 1) reducing the allowable rear yard coverage and maximum height of an accessory building in certain zones;
- 2) increasing the minimum setback requirement for an accessory building under certain circumstances;
- 3) providing for continuation of existing accessory building as conforming uses; and generally amending accessory building standards in certain zones.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved with revisions.

The County Council held a public hearing on May 2, 2006, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on June 19, and June 26, 2006 to review the amendment. Under the ZTA, the allowable rear yard coverage for an accessory building would be reduced, setbacks increased, and building height reduced in the R-90, R-60, R-40, and R-4plex zones. In particular, ZTA 06-08 would require additional setback from the rear or side property line for any accessory "building or structure" that has a linear dimension greater than 24 feet. Department of Permitting Services interprets "structure" to include a swimming pool. The Committee recommended that ZTA 06-08 be approved with a revision to clarify that a "swimming pool" is not subject to the additional setback requirement, since a swimming pool would probably not have the same impacts on adjacent property as the other construction types included under the definition of "structure". The Committee also recommended a provision be included allowing existing accessory buildings to continue under the standards in effect when the accessory building was constructed. However, any replacement or reconstruction would be required to conform to the standards in effect at the time of replacement or reconstruction. The Committee recommended recognizing the special circumstances of the Town of Garret Park and retaining a 25% rear yard coverage limit on accessory buildings for lots less than 8,600 square feet in size.

ZTA 06-08, as introduced, included amendments to the definition of accessory use. Those changes were approved by the District Council on July 11, 2006 when it approved ZTA 06-10. No changes to the definition of accessory use are included in this amendment.

The District Council reviewed Zoning Text Amendment No. 06-08 at worksessions held on July 18, 2006, and September 19, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional

District located in Montgomery County, Zoning Text Amendment No. 06-08 will be approved as revised.

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:

Sec. 1. DIVISION 59-C-1 is amended as follows:

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

* * *

59-C-1.32. Development standards.

* * *

| | RE- 2 ¹ | RE- 2C ¹ | RE-1 ¹ | R-200 | R- 150 ³ | R-90 | R-60 | R- 40 ² | R-4 plex | RMH 200 |
|--|-----------------------|------------------------|-------------------|-------|------------------------|------|------|-----------------------|-------------|------------|
| * * * | | | | | | | | | | |
| 59-C-1.326. Yard Requirements for an Accessory Building or Structure (in Feet).⁷ | | | | | | | | | | |
| (a) For all lots. | | | | | | | | | | |
| (1) An accessory building or structure must be located in a rear yard, and must not occupy more than [25] 20 percent of the rear yard. (2) An accessory building or structure must be set back from the lot lines with a minimum setback as follows: | | | | | | | | | | |
| (A) From the street line: | 80 | 80 | 80 | 65 | 65 | 60 | 60 | 60 | | 65 |
| (B) From a rear lot line: | 10 | 10 | 10 | 7 | 7 | 5 | 5 | 5 | | 7 |
| (C) From a side lot line: | 15 | 15 | 15 | 12 | 12 | 5 | 5 | 5 | | 12 |
| (3) For any accessory building or structure in the zones indicated thus (*) with a height greater than 15 feet, the side yard and rear yard minimum setback must be increased from the requirements in (2) above at a ratio of [one foot] 2 feet of additional setback for each foot of height in excess of 15 feet [;]. | | | | | | * | * | * | | |
| (4) For any accessory building or structure, | | | | | | | | | | |

| | | | | | | | | | | |
|---|--|--|--|--|--|--------------------|--------------------|--------------------|--------------------|--|
| except a swimming pool, as defined in 59-A2.1, in the zones indicated thus (*) with a length along a rear or side property line which has a linear dimension greater than 24 feet, the minimum setback from that rear or side property line must be increased from the requirement in (2) above at a ratio of [one foot] 2 feet for every 2 feet that the dimension exceeds 24 linear feet. | | | | | | * | * | * | | |
| * * * | | | | | | | | | | |
| 59-C-1.327. Maximum Building Height (in Feet). | | | | | | | | | | |
| * * * | | | | | | | | | | |
| [For an] An accessory building in these zones <u>must not exceed</u> : | | | | | | | | | [25] <u>20*</u> | |
| [For an] An accessory building in these zones, [which shall] <u>must not exceed 2 stories, and the height from existing grade [shall] to the highest point of roof surface must not exceed</u> : | | | | | | [25] <u>20*</u> | [25] <u>20*</u> | [25] <u>20*</u> | | |

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- Any accessory building in the R-90, R-60, R-40, or R-4plex zone lawfully existing before October 9, 2006 is conforming building and may continue under the standards in effect when the accessory building was constructed. However, any replacement or reconstruction of an accessory building must conform to the standards in effect at the time of replacement or reconstruction.

* * *

Sec. 2. DIVISION 59-C-18 is amended as follows:

Division 59-C-18. Overlay Zones.

* * *

**59-C-18.11. Residential and open space preservation overlay zone
for the Town of Garrett Park.**

* * *

59-C-18.113. Regulations.

* * *

(6) An accessory building or structure must be located in the rear
yard and:

- must not occupy more than 25 percent of the rear yard
on lots with a total lot area smaller than 8,600 square
feet; or,

- must not occupy more than 20% of the rear yard of a lot
on lots with a total lot area 8,600 square feet or larger.

* * *

Sec. 3. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council