

Ordinance No.: 18-47
Zoning Text Amendment No.: 18-04
Concerning: Exemptions –
Agricultural Zone
Draft No. & Date: 1 – 3/1/2018
Introduced: April 10, 2018
Public Hearing: May 15, 2018
Adopted: July 17, 2018
Effective: August 6, 2018

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

Lead Sponsor: Council President Riemer at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- grandfather existing legal uses in the Agricultural zone; and
- generally amend the provisions related to uses in the Agricultural zone

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

Division 7.7.	“Exemptions and Nonconformities”
Section 7.7.1.	“Exemptions”
Section 7.7.2	“Nonconforming Use”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by 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. 18-04 was introduced on April 10, 2018. ZTA 18-04 would allow the expansion of uses in the Agricultural Reserve zone that were legal before October 30, 2014 but were subsequently made non-conforming.

On May 2, 2018, the Executive proposed revising the text of ZTA 18-04 by deleting the proposed text and replacing it with the following revision to Section 7.7.2.A, Nonconforming Uses – Expansion.

A lawful nonconforming use of a structure or lot must not be expanded unless in the Agricultural Reserve Zone, a Federal or State health or safety law or regulation requires the expansion. Before expanding the use or structures the property owner must provide to the Director of the Department of Permitting Services a certification from the applicable Federal or State entity that the expansion or enlargement is necessary.

On May 3, 2018, the Planning Board voted to recommend denial of ZTA 18-04 as introduced. The Board agreed with Planning staff that ZTA 18-04 as introduced was overly-broad. The Board recognized the revision proposed by the Executive on May 2. The Board wrote that it “believes that the amended language of ZTA 18-04 is consistent with the purpose of Chapter 59 to provide zoning requirements designed to promote public health, safety, and general welfare.”

The public hearing on ZTA 18-04 was held on May 15, 2018. There were 2 speakers.¹ Alicia Stanley, representing Davis Airport, spoke in favor of ZTA 18-04 as amended by the Executive’s May 2 memorandum. She testified that Davis Airport was created in 1946, decades before the imposition of agricultural zoning in 1980. That zoning, she reports, tied the hands of the owner in keeping up with aviation advances. In her opinion, expansion of the Davis Airport is needed to be able to assure the well-being of pilots and neighbors, as many modern single-engine airplanes need more space to take off and land.

Ramona Bell-Pearson represented the County Executive and supported the Executive’s May 2 revision. She said, “Mr. Leggett has been made aware that there are businesses such as airports and landscaping operations that have equipment and fixtures which from time to time need to be improved, expanded, or upgraded to meet health or safety requirements.”

The Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 9, 2018. The Committee recommended approving ZTA 18-04 with amendments consistent with the Executive’s proposed May 2, 2018 proposed revisions. The Committee recommended

¹ Greg Russ spoke in the hearing on ZTA 18-03, which was held at the same day and time as the hearing on ZTA 18-04. In that testimony he repeated the Planning Board’s position in support of the ZTA as revised by the Executive.

further refining the Executive's May 2 revision to keep its focus on expansions due to safety recommendations. The Council agreed with the recommendation of the 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. 18-04 will be approved as amended.

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 7.7 is amended as follows:**

2 **Section 7.7.1. Exemptions**

3 * * *

4 **[[F. Existing Uses and Structures in the Agricultural Zone**

5 In the Agricultural Zone, any legal use and associated structures in existence
6 on October 30, 2014 that do not meet the zoning standards on or after
7 October 30, 2014 are conforming and may be expanded.]]

8 * * *

9 **Section 7.7.2. Nonconforming Use**

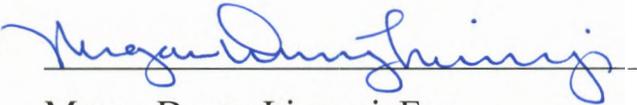
10 A lawful nonconforming use may be continued under the following limits:

11 **A. Expansion**

12 A lawful nonconforming use of a structure or lot must not be expanded
13 unless in the Agricultural Reserve zone, a Federal or State health or safety
14 law, regulation, or agency requires or recommends the expansion for safety
15 purposes. Before expanding the use or structures, the property owner must
16 provide to the Director of the Department of Permitting Services a
17 certification from the applicable Federal or State entity that the expansion or
18 enlargement is necessary.

19
20 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
21 date of Council adoption.

22
23 This is a correct copy of Council action.

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25 

26 Megan Davey Limarzi, Esq.
27 Clerk of the Council