

Ordinance No.: 19-25
Zoning Text Amendment No.: 21-06
Concerning: Exemptions – Density
Transfer and Historic
Resources
Draft No. & Date: 2 – 10/6/2021
Introduced: September 28, 2021
Public Hearing: November 2, 2021
Adopted: January 18, 2022
Effective: February 9, 2022

**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: then-Council President Hucker at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish[[Establish]] a new Residential Lots and Parcels exemption for Density Transfer and Historic Resources; and
- generally amend the density transfer provisions.

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 7.7.1.D.	“Residential Lots and Parcels”

And adding

Section 7.7.1.D.11. “Density Transfer and Historic Resources”

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 (ZTA) 21-06, Exemptions – Density Transfer and Historic Resources, lead sponsor then-Council President Hucker at the request of the Planning Board, was introduced on September 28, 2021. ZTA 21-06 will establish a new residential lot exemption for properties containing a historic resource that were protected from development by a density transfer.

ZTA 21-06 will permit a limited list of commercial uses on a site containing a historic resource which was protected from development by a density transfer, with a recommendation of approval from the Historic Preservation Commission (HPC) and site plan approval by the Planning Board. In addition, HPC and the Planning Board will be required to make three findings to ensure the proposed commercial uses protect rather than detract from the historic resource.

The Planning Board reviewed ZTA 21-06 at its regular meeting on June 17, 2021 and unanimously (5-0) recommended transmitting the draft ZTA to the County Council. The Planning Board transmitted ZTA 21-06 on June 24, 2021.

The County Council held a public hearing on November 2, 2021. Three speakers testified in support of ZTA 21-06 and the HPC submitted a letter in support. Testimony in support noted that ZTA 21-06 would promote the protection and adaptive reuse of historic properties by allowing more flexibility.

The PHED Committee held a worksession on December 13, 2021. The PHED Committee unanimously recommended approval of ZTA 21-06 with a minor formatting amendment recommended by Council Staff.

At a District Council session on January 18, 2022, 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. 21-06 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:

Sec. 1. ARTICLE 59-7 is amended as follows:

DIVISION 7.7 Exemptions and Nonconformities

Section 7.7.1. Exemptions

* * *

D. Residential Lots and Parcels

* * *

11. Density Transfer and Historic Resources

Where a lot containing a site, structure, or area of historic significance in a Residential zone is protected from development through a density transfer, the following provisions apply:

a. The following uses are allowed:

i. Any use[[] permitted]] allowed in the underlying zone, subject to the provisions of Section 7.3.1 where applicable;

ii. Clinic (up to 4 Medical Practitioners);

iii. Office;

iv. Retail/Service Establishment;

v. Rural Antique Shop; and

vi. Drive-Thru as an accessory use to any other allowed principal use[[]; and]].

[[vii. Uses allowed by Conditional Use, subject to the provisions of Section 7.3.1.]]

b. Site plan approval is required under Section 7.3.4, except for those uses requiring Conditional Use.

c. The Planning Board and the Historic Preservation Commission must make the following findings:

- i. [[Any]]any modifications to buildings, structures, or the land must protect the intent of the historic resource and be consistent with Chapter 24A of the County Code; and
- ii. [[Any]]any operational characteristics must not encroach upon or destroy the historical, archaeological, or architectural character or value of the site.
- d. The project must be recommended for approval by the Historic Preservation Commission prior to approval of the Site Plan by the Planning Board.

* * *

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

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council