

**Clerk's Note:** Replaced "Zoning Text Amendment No.: 22-06" with "Ordinance No.: 19-34" in the header of pages 3-5.

Ordinance No.: 19-34  
Zoning Text Amendment No.: 22-06  
Concerning: Exemptions – Historic  
Resources – Allowed  
Uses  
Draft No. & Date: 2 – 09/14/2022  
Introduced: June 14, 2022  
Public Hearing: July 26, 2022  
Adopted: September 20, 2022  
Effective: October 10, 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**

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Lead Sponsor: Councilmember Rice  
Co-Sponsors: Councilmembers Navarro, Katz, and Friedson

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- allow certain uses on certain historic properties; and
- generally amend the provisions for historic resources.

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"

**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) 22-06, Exemptions – Historic Resources – Allowed Uses, lead sponsor Councilmember Rice, co-sponsors Councilmembers Navarro, Katz, and Friedson, was introduced on June 14, 2022. ZTA 22-04 will allow certain uses on residentially zoned properties that are designated as a historic site or resource on the Master Plan for Historic Preservation and have frontage along an arterial or higher classified road.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) Impact Statement on July 1, 2022. OLO found that ZTA 22-06 could sustain or marginally widen racial and social inequities in the County because researchers have found that historic preservation “favors certain historical narratives and assets over others and largely serves high-income and White communities,” and that “historically African American neighborhoods are underrepresented in historic designation programs.” However, OLO anticipates a negligible impact of this ZTA on racial equity and social justice as there are a limited number of properties eligible for the additional commercial uses allowed by this ZTA and fewer that will utilize this change in the Zoning Ordinance to extend their commercial uses.

The Planning Board reviewed ZTA 22-06 at its meeting on July 14, 2022. The Planning Board recommended approval of ZTA 22-06 with two amendments: 1) changing the term “historic resource” to “individual historic site”; and 2) allowing all the enumerated uses to go through site plan review.

A public hearing was held on July 26, 2022. Three speakers testified in support of ZTA 22-06.

The PHED Committee held a worksession on September 12, 2022. The PHED Committee recommended approval of ZTA 22-06 with two amendments: 1) changing the term “historic resource” to “individual historic site”; and 2) allowing all the enumerated uses to go through site plan review but limiting the hours of operation to 6:00 a.m. to 11:00 p.m.

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. 22-06 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. DIVISION 59-7.7 is amended as follows:**

**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]On a residentially zoned property that is designated as a historic site or resource on the Master Plan for Historic Preservation and either has a density transfer easement or density transfer deed, or has frontage along an arterial or higher classified roadway, the following provisions apply:

a. The following uses are allowed with site plan approval under Section 7.3.4.:

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

[[ii]]i. Clinic (up to 4 Medical Practitioners);

[[iii]]ii. Office;

[[iv]]iii. Retail/Service Establishment;

[[v]]iv. Eating and Drinking Establishment;

[v][[vi]]v. Rural Antique Shop; and

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

b. Any use listed in section 7.7.1.D.11.a above must be closed to the public between 11:00 p.m. and 6:00 a.m.

27           [[b]]c. [[Site plan approval is required under Section 7.3.4, except for  
28           those uses requiring Conditional Use.]]Any other use allowed  
29           in the underlying zone not listed in section 7.7.1.D.11.a above  
30           is allowed, subject to the provisions of Section 7.3.1 where  
31           applicable.

32           [[c]]d. The Planning Board and the Historic Preservation Commission  
33           must make the following findings:

- 34           i.     any modifications to buildings, structures, or the land  
35                 must protect the intent of the historic resource and be  
36                 consistent with Chapter 24A of the County Code; and  
37           ii.    any operational characteristics must not encroach upon or  
38                 destroy the historical, archaeological, or architectural  
39                 character or value of the site.

40           [[d]]e. The project must be recommended for approval by the Historic  
41           Preservation Commission prior to approval of the Site Plan by  
42           the Planning Board.

43       \*    \*    \*

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

This is a correct copy of Council action.

A handwritten signature in cursive script, appearing to read "Judy Rupp", is written over a horizontal line.

Judy Rupp  
Clerk of the Council