

Zoning Text Amendment No.: 03-23  
Concerning: Nonconforming uses in the central  
business district (arts and entertainment district)  
Draft No. & Date: 1 – 7/25/03  
Introduced: July 29, 2003  
Public Hearing: 9/9/03 – 1:30 PM  
Adopted:  
Effective:  
Ordinance No.:

**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: Councilmembers Leventhal and Perez

---

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

- allowing existing nonconforming uses in the CBD-1 zone within an area designated as an arts and entertainment district to expand under limited circumstances.

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

DIVISION 59-C-6. “CENTRAL BUSINESS DISTRICT ZONES”.  
Section 59-C-6.2. “Provisions of CBD Zones”.  
Section 59-C-6.25. “Expansion of nonconforming uses in an arts and entertainment district”.

<p><b>EXPLANATION:</b>     <i><b>Boldface</b> indicates a heading or a defined term.</i> <i><u>Underlining</u> indicates text that is added to existing laws by the original text amendment.</i> <i>[Single boldface brackets] indicates text that is deleted from existing law by the original text amendment.</i> <i><u>Double underlining</u> indicates text that is added to the text amendment by amendment.</i> <i>[[Double boldface brackets]] indicates text that is deleted from the text amendment by amendment.</i> <i>* * * indicates existing law unaffected by the text amendment.</i></p>
--

*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 59-C-6 is amended as follows:**

2 \* \* \*

3 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

4 \* \* \*

5 **59-C-6.2. Provisions of CBD zones.**

6 \* \* \*

7 **59-C-6.25. Expansion of a nonconforming building or use in an arts and**  
8 **entertainment district.**

9 (a) **Intent.** To promote the arts in Montgomery County and to achieve public  
10 and cultural benefit through flexible and creative land use regulation, an  
11 existing nonconforming building or use in the CBD-1 zone may be expanded  
12 pursuant to the optional method of development process in return for  
13 significant contributions to the arts.

14 (b) **Eligibility.** Notwithstanding the allowable uses indicated in Section 59-C-  
15 6.22 and any other provisions of the Zoning Ordinance, any nonconforming  
16 building or use which is located: (i) in an area designated as an arts and  
17 entertainment district pursuant to Article 83A, Section 4-701 et. seq. of the  
18 Annotated Code of Maryland; (ii) in the CBD-1 zone; and (iii) which has a  
19 minimum lot size of 22,000 square feet, may expand up to allowable

1        nonresidential optional method densities of the CBD-1 zone, subject to the  
2        following:

3        (1)    Any new development intended to accommodate the expansion of a  
4        nonconforming building or use may occur only pursuant to the  
5        optional method of development process, and all standards and criteria  
6        applicable to an optional method development project, except that the  
7        Planning Board must approve the optional method project only upon  
8        finding that the optional method of development public use space  
9        requirement is satisfied through space devoted to the promotion of the  
10       arts.

11       (2)    The public use space requirements may be satisfied through the  
12       designation of no less than a percent of the gross rentable square  
13       footage of the optional method project equivalent to 20% of the net lot  
14       area as incubator space for start-up artists and cultural organizations  
15       (or a combination of gross rentable square footage of building area  
16       and land area if determined to be more suitable and appropriate for  
17       promotion of the arts). For purposes of this section, “incubator space  
18       for start-up artists and cultural organizations” includes space for  
19       artists and cultural organizations to work, create, rehearse, convene,  
20       exhibit and be educated on aspects of artistic or cultural management.

1 Incubator space for artists and cultural organizations may include  
2 workshop and classroom space, small offices and shared support  
3 space, rehearsal space, gallery and exhibition space, studio space and  
4 a wide range of specialized management services. At the time of  
5 project plan approval, a lease agreement between the applicant and the  
6 Arts and Humanities Council established pursuant to Chapter 5A of  
7 the Montgomery County Code governing the details of the space and  
8 occupancy and use must be executed and made a condition to the  
9 approval.

10 (3) The space devoted to artists and cultural organizations must be  
11 provided rent free to the Arts and Humanities Council. The Arts and  
12 Humanities Council will be responsible for overseeing the tenancy  
13 and operations within the space pursuant to terms, conditions and  
14 rents established by the Arts and Humanities Council.

15 (4) The finished space must be highly visible to pedestrian and street  
16 traffic, and easily accessible to visitors.

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

3

4 This is a correct copy of Council action.

5

6

7

8

---

9 Mary A. Edgar, CMC

10 Clerk of the Council