

Ordinance No: 15-74
Zoning Text Amendment No.: 06-10
Concerning: Subordinate structure
Draft No. & Date: 32 – 6/21/06
Introduced: March 28, 2006
Public Hearing: May 2, 2006; 1:30 PM
Adopted: July 11, 2006
Effective: July 11, 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: Councilmembers Praisner and Silverman

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

- revising the definition of “Building, accessory”;
- limiting the size of an accessory building in relation to the size of the main building;
- [[requiring accessory buildings of a certain size to be approved by the Board of Appeals; and]]
- [[establishing standards for Board of Appeals review of an accessory building;]] and
- generally amending the definition and standards for an accessory building.

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-A-4	“COUNTY BOARD OF APPEALS”
Section 59-A-4.1	“Authority and powers”
DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.3	“Standard development”
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”

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. 06-10 was introduced on, March 28, 2006. ZTA 06-10 clarifies that the words "subordinate" and "incidental" in the definition of an accessory building mean smaller in size than the main building and establishes a specific size limit on an accessory building in relation to the size of main building.

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 21, and June 26, 2006 to review the amendment. After careful consideration of the materials of record, the Committee recommended that ZTA 06-10 be approved with the following revisions: (1) apply the accessory building footprint limitation only on lots where the main building is a one-family detached residential dwelling; (2) limit the footprint of an accessory building on a lot where the main building is a one-family detached residential dwelling to not more than 50 percent of the footprint of the main building (lines 65-77); (3) eliminate proposal to allow the Board of Appeals to grant an increase in the floor area of an accessory building in relation to the floor area of the main building; and (4) clarify in the grandfather provision that in the event a building permit issued before July 11, 2006 is revoked, but subsequently approved, the accessory building must be in compliance with the accessory building standards in effect at the time of the subsequent approval.

The District Council reviewed Zoning Text Amendment No. 06-10 at a worksession held July 11, 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. 06-10 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:

1 **Sec. 1. DIVISION 59-A -2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Building, accessory:** A building subordinate [[in size to]], and located on the
6 same lot with, a main building, the use of which is clearly incidental to that of the
7 main building or to the use of the land, and which is not attached by any part of a
8 common wall or common roof to the main building. In addition to any other
9 meaning the word “subordinate” may have in this definition, on a lot where the
10 main building is a one-family detached residential dwelling, except for an
11 accessory agricultural building, subordinate means that the footprint of the
12 accessory building is smaller than the footprint of the main building.

13 * * *

14 **Use, accessory:** A use which is (1) customarily incidental and subordinate to the
15 principal use of a lot or the main building [thereon], and (2) located on the same lot
16 as the principal use or building. [In addition, a] A temporary structure or trailer
17 used for construction administration or real estate sales in conjunction with and
18 during the period of development, construction, or sales within the same site or
19 subdivision in which it is located is [also] an accessory use.

20 **Sec. 2. DIVISION 59-A-4 is amended as follows:**

21 **DIVISION 59-A-4. COUNTY BOARD OF APPEALS.**

22 **59-A-4.1. Authority and powers.**

23 **59-A-4.11. Authority.**

24 The county Board of Appeals may hear and decide the following matters as
25 provided in Section 2-112:

26 (a) Petitions for special exceptions, subject to articles 59-G-1 and 59-G-2.

- (b) Petitions for variances from the strict application of this chapter, as provided in article 59-G-3.
- (c) Appeals from any refusal to issue a building or use-and-occupancy permit, or from any order or decision of the Department or the Commission, when passing upon an application for a building or other permit, or by any other officer or body, under this chapter.
- (d) Appeals in regard to property affected by the master plan of highways.
- (e) Petitions concerning public nuisances as specified in section 59-A-5.7.
- (f) Petitions for an increase in the proportion of guest rooms to more than 20 percent, but not more than 45 percent of the total units in apartment hotels, under the hotel-motel special exception.
- (g) [[Petitions for an increase in the floor area or footprint of an accessory building not to exceed the floor area or footprint of the main building in or accordance with the standards established under 59-C-1.31(g) and 59-C-9.3(j).]]
- [(g)] (h) Appeals from an action or decision of the Sign Review Board under Section 59-F-10.2.
- [(h)] (i) Appeals from the issuance, revocation, suspension, or refusal to renew a sign installer license under Section 59-F-9.2.

Sec. 3. DIVISION 59-C-1 is amended as follows:

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

* * *

59-C-1.3. Standard development.

* * *

59-C-1.31. Land uses.

* * *

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4 plex	RMH 200
* * *										
(g) Miscellaneous.										
Accessory buildings or structures for housing animals or fowl.	P	P	P	P	P	P	P			
Accessory buildings and uses.*	P	P	P	P	P	P	P	P	P	P
Kennels, noncommercial. ³¹	P	P	P	P	P ³⁰	P ³⁰	P ³⁰	P ³⁰	P ³⁰	P ³⁰

* [[Except for a building accessory to an agricultural use, an accessory building must not exceed 50 percent of the floor area or 50 percent of the area of the footprint of the main building; however, the Board of Appeals may approve by resolution, after a public hearing, an increase in the floor area or footprint of an accessory building not to exceed the floor area or footprint of the main building. The following standards must be considered: (1) the floor area and footprint of the accessory building in relation to the size of the parcel; (2) the floor area and footprint of the accessory building in relation to the main building; (3) the location of the accessory building in relation to other buildings on the parcel and any adjoining parcel and (4) whether the accessory building alters the character of the parcel.]]

Except for a building accessory to an agricultural use, the footprint of an accessory building on a lot where the main building is a one-family detached residential dwelling must not exceed 50 percent of the footprint of the main building. Any accessory building for which a building permit was issued before July 11, 2006 may continue as a conforming building under the standards in effect at the time the building permit was issued; however, in the event a building permit that was issued before July 11, 2006 is revoked, but subsequently approved, the accessory building must be in compliance

with the standards in effect at the time of the subsequent approval. Any replacement or reconstruction of an accessory building constructed under a building permit issued before July 11, 2006 must comply with the standards in effect at the time the building is replaced or reconstructed.

* * *

Sec. 4. DIVISION 59-C-9 is amended as follows:

DIVISION 59-C-9. AGRICULTURAL ZONES.

* * *

59-C-9.3. Land uses.

* * *

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
(j) Miscellaneous:						
Accessory buildings and uses.*	P	P	P	P	P	P
Security pavilion.	P ⁴³	P ⁴³	P ⁴³	P ⁴³	P ⁴³	P ⁴³

[[Except for a building accessory to an agricultural use, an accessory building must not exceed 50 percent of the floor area or 50 percent of the footprint of the main building; however, the Board of Appeals may approve by resolution, after a public hearing, an increase in the floor area or footprint of an accessory building not to exceed the floor area or footprint of the main building. The following standards must be considered: (1) the floor area and footprint of the accessory building in relation to the size of the parcel; (2) the floor area and footprint of the accessory building in relation to the main building; (3) the location of the accessory building in relation to other buildings on the parcel and any adjoining parcel and (4) whether the accessory building alters the character of the parcel.]]

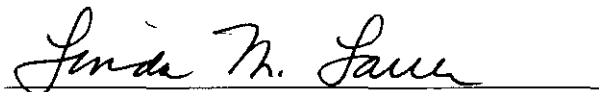
Except for a building accessory to an agricultural use, the footprint of an accessory building on a lot where the main building is a one-family detached residential dwelling must not exceed 50 percent of the footprint of the main

99 building. Any accessory building for which a building permit was issued
100 before July 11, 2006 may continue as a conforming building under the
101 standards in effect at the time the building permit was issued; however, in
102 the event a building permit that was issued before July 11, 2006 is revoked,
103 but subsequently approved, the accessory building must be in compliance
104 with the standards in effect at the time of the subsequent approval. Any
105 replacement or reconstruction of an accessory building constructed under a
106 building permit issued before July 11, 2006 must comply with the standards
107 in effect at the time the building is replaced or reconstructed.

108 * * *

109 **Sec. 5. Effective date.** This ordinance becomes effective [[20 days after the
110 date of]] immediately upon Council adoption.

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112 This is a correct copy of Council action.

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117 Linda M. Lauer, Clerk of the Council