

ORDINANCE NO. ORD-2015- 20

**AN ORDINANCE TO AMEND CERTAIN PROVISIONS OF THE  
ZONING ORDINANCE FOR WASHINGTON COUNTY, MARYLAND  
AND TO REENACT SAID ORDINANCE WITH CHANGES RELATING  
TO ITS TEXT**

(RZ-14-002)

**RECITALS**

The Board of County Commissioners of Washington County, Maryland (the "Board") adopted the Zoning Ordinance for Washington County, Maryland (the "Ordinance") on January 23, 1973, and it became effective on April 2, 1973.

The Washington County Department of Planning and Zoning filed an application requesting that the Ordinance be amended by repealing, in its entirety, Article 5E – Rural Business – Existing (RB-E) and amending Article 5F – Rural Business – New (RB-N) to merge the two zoning districts into one new floating zone district called Rural Business (RB). The repeal of the RB-E district will require an appropriate reclassification of some parcels to Agricultural Rural (AR), Environmental Conservation (EC), Preservation (P), or Rural Village (RV) to affected properties. The Definitions of "Home Occupation" and "Resident Business" are also proposed to be amended.

The Board believes it to be in the best interests of the citizens of Washington County for the amendments to be enacted.

The Washington County Planning Commission (the "Planning Commission") held a public meeting for the purpose of taking comments on the proposed amendment on April 21, 2014, pursuant to public notice duly given.

The Board held public hearings for the purpose of taking testimony on the proposed amendments on August 26, 2014 and August 18, 2015, pursuant to public notice duly given.

Following the public meeting and public hearings, the Board considered the recommendations of the Planning Commission and the Planning Department staff, and materials received, if any, as part of the public meeting and public hearing. The Board conducted this review in a public session.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that certain provisions of the Zoning Ordinance, as amended, be further amended as follows:

**RZ-14-002**

- (1) **ARTICLE 5E – "RB-E" RURAL BUSINESS EXISTING DISTRICT, is hereby REPEALED in its entirety.**
- (2) **ARTICLE 5F – "RB – N" RURAL BUSINESS NEW DISTRICT, is amended and renumbered to ARTICLE 5E "RB" RURAL BUSINESS DISTRICT, and shall read as follows:**

## ARTICLE 5E – “RB” RURAL BUSINESS DISTRICT

### Section 5E.0 Purpose

The “RB” Rural Business District is established to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County. The Rural Business District is established as a “floating zone” which may be located on any parcel in an Agricultural, Environmental Conservation, Preservation or Rural Village Zoning District.

### Section 5E.1 Principal Permitted Uses and Accessory Uses

See the Table of Land Uses [Section 3.3, Table No. 3.3(1)] for identification of principal and accessory uses permitted in the RB District.

### Section 5E.2 Special Exceptions

There are no special exception uses in the RB District that may be granted by the Board of Zoning Appeals. The RB District itself is analogous to a special exception and is granted through the review process described in this Article.

### Section 5E.3 Non-Conforming Uses

Existing businesses not listed on the Table of Land Uses [Table No. 3.3(1)] may continue as “Non-Conforming Uses” in accordance with the Non-Conforming Use provisions of this Ordinance.

### Section 5E.4 Criteria

- (a) Businesses in the rural area existing at the time of adoption of these regulations and which are listed on the Table of Land Uses [Table No. 3.3(1)] shall be designated on the Washington County Zoning Map as a Rural Business (RB) Floating Zone. Businesses with this designation need not take any action to continue operation. Such existing uses are viewed as compatible with the character of the rural area and their continued operation is deemed consistent with the policies of the Comprehensive Plan.
- (b) The RB Floating Zone District may be newly established at a particular location if the following criteria are met:
  - 1. The proposed RB District is not within any designated growth area identified in the Washington County Comprehensive Plan;
  - 2. The proposed RB District has safe and usable road access on a road that meets the standards under the “Policy for Determining Adequacy of Existing Roads.” In addition, a traffic study may be required where the proposed business, activity or facility generates 25 or more peak hour trips or where 40% of the estimated vehicle trips are anticipated

to be commercial truck traffic;

3. Onsite issues relating to sewage disposal, water supply, stormwater management, flood plains, etc. can be adequately addressed; and
4. The location of an RB District would not be incompatible with existing land uses, cultural or historic resources, or agricultural preservation efforts in the vicinity of the proposed district.

**Section 5E.5 Bulk Regulations:**

- (a) **Lot Size:**  
Minimum 40,000 Sq. Ft.
- (b) **Front Yard Building Setback:**  
40 feet from a Minor Collector or Local Public Road Right of Way  
50 feet from a Major Collector or Arterial Public Road Right of Way
- (c) **Side and Rear Yard Building Setbacks:**  
50 feet from a property zoned for or occupied by a Residential Land Use;  
25 feet from a property zoned for or occupied by a Non- Residential Land Use.
- (d) **Structure Height:** 35 feet
- (e) **Lot Coverage:** Maximum 65 %
- (f) **Parking.**
  1. Off-street parking facilities shall be provided in accordance with Article 22, Division I, of this Ordinance.
  2. Parking and access aisles are permitted in the front yard setback area. Parking and access aisles are permitted in the side and rear yard setback areas only when the lot abuts a property with a non-residential land use.
- (g) **Signage.**

Signage shall conform to the requirements set forth in Section 22.23 of this Ordinance; however, in no case shall the total cumulative area of signage for freestanding and building mounted signage in this district exceed two hundred (200) square feet. No off premises signs shall be approved through this rezoning process.
- (h) **Lighting.**

Lighting shall be provided for all nighttime uses. All building mounted or freestanding lighting shall be constructed so that light and glare are directed toward the ground.

- (i) Outside storage of materials is limited to those areas on a site plan designated for such storage. Additional screening may be required when outside storage is proposed.
- (j) Screening.
  - 1. Trash, refuse, or recycling receptacles shall be screened from public view through the use of fencing or landscaping.
  - 2. Additional buffering, screening, or landscaping or other like elements may be required when the proposed RB District abuts a Historic Preservation Overlay Area or is located along a designated scenic highway.
  - 3. Screening between a residential land use and a proposed RB district shall consist of three species that shall be a minimum of eight (8) feet overall in height and two (2) inch caliber at the time of planting. Trees shall be placed at maximum 10-foot intervals along the perimeter of the boundary to be screened except for areas that would restrict sight distance from the access points to the site. Shrubs may be required to supplement tree plantings to create an opaque screen. Shrubs may be used in place of trees if they can be shown to create the same overall screening effect. Perimeter screening in the form of a solid fence or a combination of a solid fence and vegetation may be used to meet the screening requirement.

#### Section 5E.6 Procedure for Creation of a RB Floating Zone District

- (a) The owner of an interest in a tract of land in Washington County may apply to the Board of County Commissioners to designate the property with a "RB" Rural Business floating zone designation. The application shall include:
  - 1. A Rezoning Application Form with a location map; and
  - 2. A location map and boundary identification of the property covered by the application. If only a portion of the property is requested to be rezoned, a detailed map including a metes and bounds description shall be submitted with the application so as to determine the limits of the portion of property to be rezoned.
  - 3. A Preliminary Site Plan Showing:
    - a. Information identifying: the owners of the property and contract purchaser if appropriate, current zoning designation, proposed use(s) for the site, the estimated number of employees, hours of operation, anticipated trip generation to/from the site, and land uses within 1,000 feet of the site;
    - b. Identification of: existing topography, 100 year floodplain areas, forested areas, wetlands, endangered species areas, and historical or culturally significant features on or abutting the site;

- c. The general location of proposed points of ingress and egress to the site;
  - d. The location of any existing or proposed buildings on the site and the location of building setback lines;
  - e. The general location of any existing or proposed well and septic system areas or public water and/or sewer lines if available;
  - f. The general areas to be dedicated for parking including the number of spaces to be provided.
  - g. The general location of landscaped areas including proposed screen plantings and any proposed on site forest mitigation areas;
  - h. The general location of storm water management facilities and an estimate of the amount of impervious area for the site;
  - i. The general location of proposed signage and lighting; and
  - j. A sketch or rendering of any proposed new structures with information on scale, exterior finish and signage.
- (b) The application shall be reviewed at a rezoning public meeting of the Planning Commission. The Planning Staff will provide a staff report on the proposed rezoning request and the applicant will have an opportunity to present his case. Public comment will be taken at the public meeting.
- (c) After the public meeting, the Planning Commission shall make a recommendation to the Board of County Commissioners based on the following:
- 1. The proposed district will accomplish the purpose of the RB District;
  - 2. The proposed site development meets criteria identified in Section 5E.4 of this Article;
  - 3. The roads providing access to the site are appropriate for serving the business related traffic generated by the proposed RB land use;
  - 4. Adequate sight distance along roads can be provided at proposed points of access to the site;
  - 5. The proposed landscaped areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity; and
  - 6. The proposed land use is not of a scale, intensity or character

that would be incompatible with adjacent land uses or structures.

- (d) Upon receipt of the Planning Commission's recommendation, the Board of County Commissioners shall schedule a public hearing.
- (e) Based on the recommendation of the Planning Commission, staff reports and testimony provided at the public hearing, the Board of County Commissioners will either approve or deny the application request. The Board of County Commissioners may approve the application with stipulation of conditions to be addressed at the time of final site plan approval. Approval of the RB District shall only be for the use(s) identified on the application and preliminary site plan. Approval of the application to create an RB District shall cover only that portion of a parcel or lot identified in the application.
- (f) After approval by the Board of County Commissioners, a final site plan prepared in accordance with Article 4, Section 4.11, shall be submitted for approval by the Planning Commission or Planning Staff if so designated. Minor modifications to approved use(s) or an accessory use(s) or to the preliminary approved site plan may be approved by the Planning Commission.
- (g) Approval of a site plan by the Planning Commission shall entitle the applicant to apply for a building permit in accordance with the rules and regulations for issuance of a building permit.

#### Section 5E.7 Changes in Land Use

Changes of land use in approved RB floating districts shall be reviewed by the Planning Commission. Applicants may present information to the Planning Commission delineating how the change of land use may or may not be consistent with the approved site plan for the property. Only land uses permitted in the RB District described in Section 3.3 Land Use Chart of this Ordinance will be considered by the Planning Commission. It will be the determination of the Planning Commission as to whether or not there has been a significant change in the use and intensity of the property that could result in the need for a new public hearing to approve the changed use.

#### Section 5E.8 Removal of the Floating Zone

- (a) Full Termination. An individual property owner may submit a written request to the Planning Commission to remove the entire RB floating zone district from their property at any time. The Planning Commission shall review such a request during one of their regular meetings and make a recommendation to the Board of County Commissioners as to whether or not to grant the request. The Board of County Commissioners may then approve or deny the request without a public hearing. Should the Board of County Commissioners approve the property owner's request to remove the RB floating zone district, the land will be restored to its underlying zoning district.
- (b) Partial Termination. An individual property owner may submit a written request to the Planning Commission to remove a portion of the RB floating

zone district from their property at any time. The written request must be accompanied by a detailed drawing showing surveyed metes and bounds of the requested change so as to determine the limits of the RB floating zone district. The Planning Commission shall review such a request at one of their regular meetings and make a recommendation to the Board of County Commissioners. The Board of County Commissioners may then approve or deny the request without a public hearing. Should the Board of County Commissioners approve the property owner's request to remove the RB floating zone district, the land will be restored to its underlying zoning district.

**(3) ARTICLE 22, DIVISION II – SIGNS, Section 22.2(a) is amended and shall read as follows:**

**Section 22.21 Signs Permitted Without Zoning Permits**

The following signs are permitted without zoning permit in any district provided the following conditions are adhered thereto.

- (a) A sign indicating the name and/or premises or accessory use of a home for a home occupation or professional purpose, not exceeding ten (10) square feet in area.

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**(4) ARTICLE 28A – DEFINITIONS, is amended as follows:**

- (1) The definition of **Home Occupation** is amended and shall read as follows:

**Home Occupation:**

Any use of a dwelling or accessory building conducted solely by a member or members of the family residing therein, which is incidental or subordinate to the main use of the building for dwelling purposes and meets all of the following criteria:

- A. The use does not exceed more than 2,500 square feet of the floor space of the dwelling or accessory structure;
- B. The use does not generate vehicular parking, freight and delivery traffic or other nonresidential traffic to a greater extent than would normally result from residential occupancy;
- C. The use does not generate outside storage of equipment or supplies;
- D. Signage for the business is limited to one (1) sign not more than ten (10) square feet in total sign area; and
- E. Has no other evidence being visible, audible or abnormally odoriferous from the outside of the dwelling to indicate it is being used for anything other than residential purposes.

(2) The definition of **Resident Business** is amended and shall read as follows:

**Resident Business:**

A special exception use of a dwelling or accessory structure, as approved by the Board of Appeals, conducted solely by a member or members of the family residing therein and not more than two (2) non-resident employees, which is incidental or subordinate to the main use of the building for dwelling purposes and meets the following criteria:

- A. The use does not exceed more than 5,000 square feet of the floor space of the dwelling or an accessory structure;
- B. The use will not generate vehicular parking that would exceed spaces for the employee and equipment;
- C. Freight and delivery traffic shall not be to a greater extent than would normally result from residential occupancy unless otherwise approved by the Board;
- D. Other non-residential vehicular traffic resulting from patronage will not exceed five (5) peak hour trips.
- E. Outside storage of materials will not exceed ten (10) percent of the lot area, but not to exceed 5,000 square feet in any instance;
- F. Signage for the business is limited to one (1) sign not more than ten (10) square feet in total sign area;
- G. Hours of operation for the business is approved as part of the special exception by the Board;
- H. The use has no other evidence being visible, audible or abnormally odoriferous from the outside of the dwelling to indicate it is being used for anything other than residential purposes; and
- I. Upon approval of the special exception a minor site plan shall be submitted and approved by the Planning Commission.

Adopted and effective this 1<sup>st</sup> day of September, 2015.

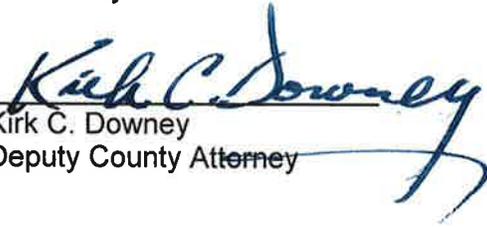
ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

  
Vicki C. Lumm, Clerk

  
Terry L. Baker, President

Approved as to legal  
sufficiency:

  
Kirk C. Downey  
Deputy County Attorney

Mail to:  
Office of the County Attorney  
100 W. Washington St., Rm. 202  
Hagerstown, MD 21740

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