

Zoning Text Amendment No: 07-06
Concerning: RDT - Child Lots Standards
Draft No. & Date: 1 – 5/22/07
Introduced: June 12, 2007
Public Hearing: July 19, 2007; 7:30 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:
Council President Praisner at the request of the Ad Hoc Agricultural Policy Working Group

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

- amending the density calculations in the RDT Zone to exclude a lot for a child under specified conditions;
- amending the standards to approve a child lot in the RDT Zone;
- generally amending the child lot provisions in the RDT Zone

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

DIVISION 59-C-9 “Agricultural Zones”
Section 59-C-9.41 “Density in RDT zone”
Section 59-C-9.74 “Exempted lots and parcels-Rural Density Transfer zone”

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.

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

3 In this Chapter, the following words and phrases have the meanings indicated:

4 * * *

5 **Child Lot:** A lot created for use for a one-family dwelling unit by a child, or the
6 spouse of a child, of a property owner.

7 * * *

8 **Immediate Family Member:** A person’s parents, spouse, children, and siblings

9 **Sec. 2. DIVISION 59-C-9 is amended as follows:**

10 **DIVISION 59-C-9. Agricultural Zones.**

11 * * *

12 **59-C-9.4. Development standards.**

13

14 The following requirements apply in all cases, except as specified in the optional
15 standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and
16 the exemption provisions of section 59-C-9.7. [The following dwelling units on
17 land in the RDT zone are excluded from this calculation, provided that the use
18 remains accessory to a farm. Once the property is subdivided, the dwelling is not
19 excluded:]

20 **59-C-9.41. Density in RDT zone.**

21 [Only one one-family dwelling unit per 25 acres is permitted. (See section 59-C-
22 9.6 for permitted transferable density.) The following dwelling units on land in the
23 RDT zone are excluded from this calculation, provided that the use remains
24 accessory to a farm. Once the property is subdivided, the dwelling is not excluded:

25 (a) A farm tenant dwelling, farm tenant mobile home or guest house as
26 defined in section 59-A-2.1, title "Definitions."

27 (b) An accessory apartment or accessory dwelling regulated by the
28 special exception provisions of division 59-G-1 and 59-G-2.]

29 Except as provided in subsection (a) or (b), only one one-family dwelling unit per
30 25 acres is permitted. (See Section 59-C-9.6 for permitted transferable density.)

31 Density above one one-family dwelling unit per 25 acres is allowed if:

32 (a) the dwelling unit is accessory to a farm, is not on a separate parcel or
33 lot, and is either:

34 (1) a farm tenant dwelling, farm tenant mobile home, or guest
35 house; or

36 (2) an accessory apartment or accessory dwelling regulated by the
37 special exception provisions of Division 59-G-1 and 59-G-2.

38 (b) the lot satisfies the requirements of Section 59-C-9.41.1.

39 **59-C-9.41.1. Child Lots in the RDT Zone**

40 (a) **Applicability.** A child lot above the density of one one-family dwelling unit
41 per 25 acres is allowed in the RDT zone only if the following requirements
42 are satisfied.

43 (1) The property owner must have:

44 (A) recorded title to the property before January 7, 1981;

45 (B) applied for approval to create the lot or expressed the intent to
46 create the lot in a will or a codicil admissible in probate
47 proceedings; and

48 (C) retained a development right for each lot.

49 (2) The Planning Board must not approve more than one child lot for each
50 child of the property owner, regardless of the number of properties
51 owned.

52 (3) A child lot must be identified on a record plat.

53 (4) A majority of the land in the subdivision creating the lot must be
54 reserved for agriculture.

55 (b) **Building Permit Restricted.** A building permit for a one-family dwelling
56 unit on a child lot must be issued only to:

57 (1) a child of the property owner;

58 (2) the spouse of a child of the property owner;

59 (3) a contractor for a child of the property owner; or

60 (4) a contractor for the spouse of a child of the property owner.

61 (c) **Transfer restricted.** Except as provided in subsection (c)(1) and (c)(2),
62 ownership of the a child lot must not be transferred or leased within five
63 years of the date of final inspection of a one-family dwelling unit by the
64 Department of Permitting Services:

65 (1) The owner of the child lot may only lease the lot to an immediate
66 family member.

67 (2) Ownership of a child lot may be transferred if the Planning Board
68 finds a hardship after the date of final inspection, such as death of the
69 child or a bona fide foreclosure of the mortgage or deed of trust.

70 (d) **Penalty for Violations.**

71 (1) Except as provided in subsection (d)(2), any violation of this
72 subsection is subject to the penalty and enforcement provisions in
73 Section 59-A-1.3.

74 (2) The Planning Board may take legal action to stop or cancel any
75 transfer or building permit of a child lot if any party to the transfer or
76 the building permit does not comply with all requirements of Section
77 59-C-9.41.1. The Planning Board may recover any funds improperly
78 obtained from any sale or lease of child lot in violation of this
79 subsection, plus costs and interest at the rate prescribed by law from
80 the date a violation occurred.

81 (e) **Covenant required.** A covenant between the property owner and the
82 Montgomery County Planning Board must be recorded in the Montgomery
83 County land records. The covenant must:

- 84 (1) be recorded simultaneously with the record plat;
- 85 (2) identify the transfer restrictions in subsection (c); and
- 86 (3) identify the penalties for violations as identified in subsection (d).

87 * * *

88 **59-C-9.7. Exempted lots and parcels and existing buildings and permits.**

89 * * *

90 **59-C-9.74. Exempted lots and parcels—Rural Density Transfer zone.**

- 91 (a) The number of lots created for children in accordance with the
92 Maryland Agricultural Land Preservation Program must not exceed
93 the development rights assigned to the property and retained by the
94 property owner.
- 95 (b) The following lots are exempt from the area and dimensional
96 requirements of section 59- C-9.4 but must meet the requirements of
97 the zone applicable to them [prior to their classification in the Rural
98 Density Transfer zone] before January 7, 1981.

- 99 (1) A recorded lot created by subdivision, if the record plat was
100 approved for recordation by the Planning Board [prior to the
101 approval date of the sectional map amendment which initially
102 zoned the property to the Rural Density Transfer Zone] before
103 January 7, 1981.
- 104 (2) A lot created by deed executed [on or] before [the approval date
105 of the sectional map amendment which initially zoned the
106 property to the Rural Density Transfer Zone] January 7, 1981.
- 107 (3) A record lot having an area of less than 5 acres created after
108 [the approval date of the sectional map amendment which
109 initially zoned the property to the Rural Density Transfer Zone]
110 January 7, 1981 by replatting 2 or more lots; provided that the
111 resulting number of lots is not greater than the number which
112 were replatted.
- 113 (4) A lot created for use for a one-family [residence] dwelling by a
114 child, or the spouse of a child, of the property owner, [provided
115 that the following conditions are met] if the lot satisfies the
116 requirements of 59-C-9.41.1. [:
- 117 (i) The property owner can establish that he had legal title
118 on or before the approval date of the sectional map
119 amendment which initially zoned the property to the
120 Rural Density Transfer Zone;
- 121 (ii) This provision applies to only one such lot for each child
122 of the property owner; and

123 (iii) Any lots created for use for one-family residence by
124 children of the property owner must not exceed the
125 number of development rights for the property owner.]

126 * * *

127 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of
128 Council adoption.

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130 This is a correct copy of Council action.

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135 Linda M. Lauer, Clerk of the Council

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