



<b>FROM</b>	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 <sup>TH</sup> FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #20-0601 / ZONING CODE – MODIFICATIONS		

**TO**

The Honorable President and  
Members of the City Council  
City Hall, Room 400  
100 North Holliday Street

DATE: October 5, 2020

At its regular meeting of October 1, 2020, the Planning Commission considered City Council Bill #20-0601, for the purpose of making needed changes to certain provisions that, during the course of actively operating under the new Zoning Code, were discovered to be functionally impractical or otherwise in need of modification to abate previously unanticipated consequences; allowing electronic signs in residential districts, making them a conditional use by the Board of Municipal and Zoning Appeals, specifying the zoning district requirements, and generally relating to conditional signs; correcting, clarifying, and conforming certain provisions; and generally relating to the zoning and development laws of the City of Baltimore.

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, and recommends that City Council Bill #20-0601 be amended and passed by the City Council with the amendment contained in the staff report along with the following amendment:

- Amend §17-407 (a) to add a "(3) In Residential Zoning Districts R-1A through R-10 for all uses allowed in the Institutional use category."

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

cc: Mr. Nicholas Blendy, Mayor's Office  
Mr. Matthew Stegman, Mayor's Office  
Ms. Nina Themelis, Mayor's Office  
The Honorable Edward Reisinger, Council Rep. to Planning Commission  
Mr. Colin Tarbert, BDC  
Ms. Livhu Ndou, BMZA  
Mr. Geoffrey Veale, Zoning Administration  
Ms. Stephanie Murdock, DHCD  
Ms. Elena DiPietro, Law Dept.  
Mr. Francis Burnszynski, PABC  
Mr. Liam Davis, DOT  
Ms. Natawna Austin, Council Services  
Mr. Dominic McAlily, Council Services



Bernard C. "Jack" Young  
Mayor

## PLANNING COMMISSION

*Sean D. Davis, Chairman*

### STAFF REPORT



*Chris Ryer*  
Director

**October 1, 2020**

**REQUEST:** City Council Bill #20-0601/ Zoning Code – Modifications:

For the purpose of making needed changes to certain provisions that, during the course of actively operating under the new Zoning Code, were discovered to be functionally impractical or otherwise in need of modification to abate previously unanticipated consequences; allowing electronic signs in residential districts, making them a conditional use by the Board of Municipal and Zoning Appeals, specifying the zoning district requirements, and generally relating to conditional signs; correcting, clarifying, and conforming certain provisions; and generally relating to the zoning and development laws of the City of Baltimore.

**RECOMMENDATION:** Amend and Approve

**STAFF:** Laurie Feinberg

**INTRODUCED BY:** President Scott for the Administration (Department of Planning)

### CONFORMITY TO PLANS

The Zoning Code was adopted June 5, 2020. The Comprehensive plan had called for the new Zoning Code and this is consistent with the goal of keeping the Zoning Code up to date.

### ANALYSIS

#### Background

The latest Zoning Code, often referred to as TransForm Baltimore became law June 5, 2017. During the drafting and public hearing process of the code it was discussed and asked of the Planning Department that the code be reviewed annually so this code does not get as outdated as the 1971 code did. In other words, a goal was proposed to keep the document live and review it regularly. The Planning Department began this current review in late 2018 but there were various delays, but this bill represents at least a partial review of the code with these amendments.

This review is primarily based on suggestions that have arisen from using the code. Suggestions came to us from the Zoning Administration, the Executive Director of Board of Municipal and Zoning Appeals, residents, businesses who have needed to use the Zoning code for a project, and planners. On June 4, 2020, the Department held an open informational meeting about the list of amendments and opened the discussion up to more ideas. During that meeting the issue that raised the most discussion was parking requirements. The conversation appeared equally split

between people advocating for total reduction in parking requirements and others concerned about not having enough available spaces.

Prior to this bill, we did have City Council Ordinance #18-216 (CCB #18-0272). This amendment to the Zoning Code's sign regulations was the result of the City's proactive response to the Supreme Court decision in *Reed, et. al. v. Town of Gilbert, Arizona, et. al.* that signage could not be governed by content. That being said, the proposed legislation included a few areas that would still maintain regulation over some content. Those areas include alcoholic beverage and cigarette signage, obscene signs, the loosening of the general prohibition of billboards, and some fuel station signage which are governed by state and federal regulations. The City Law Department believes that these areas of content regulation would withstand strict scrutiny.

Though the primary reason for the rewrite was the Reed case, this ordinance reflects a complete review and reorganization of Title 17 from the 2016 Zoning Code rewrite that was enacted in June 2017. In addition to the repeal and replacement of Title 17 in its entirety, this bill included other signage related amendments to other titles of Article 32. The new Title 17 is reorganized for clarity, more information is in tabular form, all sign types were defined clearly and the rules around Areas of Special Signage Control (ASSC) are clarified.

Since Title 17 is essentially new, we did not propose any major changes as part of this bill.

### **Summary of bill**

This bill is based on the use of the code for the last three years by Planning and Zoning staff as well as the Executive Director of the Board of Municipal and Zoning Appeals (BMZA). They are informed by public meetings and user's comments and concerns. They include the following;

1. Adding the ability to have small size digital signs in residential districts, conditionally to the BMZA. This has been requested by various schools and religious institutions. Initial concern about such signs is if pointing towards a house they may disturb residents and therefore it is recommended as a conditional use rather than just permitted.
2. Clarifying the definition of a block face to mean the full block between two streets excluding alleys and sidewalks.
3. Adding Farmers' markets as a use rather than just an event and permitting them in most zones, but conditional in residential zones.
4. Changing the title of Gas stations to Fueling stations, and expressly permitting charging stations.
5. Expressly adding recreation centers to the list of inclusions in Government facility.
6. Clarifying in the definition of Kennels to include nonprofit shelters as opposed to just business entities.
7. Add micro-blading to the inclusions in Personal services establishment along with beauty shops.
8. To make is clear in the transition rules that if a pre-existing use is or becomes conditional, that changes to the use must be approved by the BMZA.

9. To give the BMZA the authority to approve new accessory uses that are not otherwise listed as long as they meet the standard of accessory, that is incidental and subordinate to primary use.
10. To clearly give a property owner the authority to withdraw an application, not just the applicant.
11. To give the BMZA the authority to deny applications for properties with outstanding violations or unpaid fees or fines.
12. To clarify that outdoor seating for a Neighborhood commercial establishment must be on the street side of the property and not in the rear yard or on a roof deck.
13. Delete “(principal use)” from Parking garages (principal use), so standards apply to all garages.
14. To add a clarification on measuring heights of buildings when they are set back from the street more than 30 feet. This becomes an issue when the site has significant topography. The amendment provides for measuring from the ground adjoining the wall as opposed to from the curb.
15. Provide for Carriage houses without requiring them to be subdivided from main property.
16. In local Historic Districts or on Local Historic Landmarks, to allow canopies with or without electronic signs if they had historically existed.
17. Provide for expansion of non-conforming structures if they don’t increase the degree of existing non-conformity.
18. Table edits include the following;
  - a. Provide for Farmer’s markets;
  - b. Permit accessory parking in Open Space zones;
  - c. Permit detached houses in R-5 through R-10 on smaller lots with smaller yards;
  - d. Provide for Commercial or vocational programs in C-1 districts;
  - e. Make Arts studio: Industrial and Food processing: Light permitted in all commercial zones;
  - f. Correct a missing phrase, that is “per dwelling unit” in Table 10-401; and
  - g. Permit gazebos in side and rear yards.

These minor changes are consistent with the goal to keep the Zoning Code up to date to meet the needs of the City and its residents.

## **Approval Standards**

According to Section 5-508(c) *Text amendments*, the Planning Commission must consider the following standards:

*(1) the amendment’s consistency with the City’s Comprehensive Master Plan;* The Comprehensive Plan called for a new Zoning Code and this bill is intended to keep that code up to date. The Zoning Code is functionally a part of the master plan, and if it’s not working as we expected, we need to correct to match intent.

*(2) whether the amendment would promote the public health, safety, and welfare;* These amendments support and improve existing code’s goal to promote the health, safety and welfare, examples include the expansion of Farmer’s Markets, giving the BMZA the authority to deny

applications for properties with outstanding violations. This essentially prevents bad operators from postponing enforcement long enough that it becomes less meaningful. That is, you can't file an appeal and ignore it just to stay enforcement.

(3) *the amendment's consistency with the intent and general regulations of this Code*; These amendments maintain and enforce the intent of the code and reflect practical learning with real experience over time.

(4) *whether the amendment would correct an error or omission, clarify existing requirements, or effect a change in policy*; and These amendments correct omissions as in Sqft/dwelling unit, as well as some change in policies to make detached dwellings easier to construct in high density zones and maker spaces able to establish on all commercial areas.

(5) the extent to which the amendment would create nonconformities. These amendments would not increase non-conformities and in a few cases, it would decrease them.

### **Amendments**

Delete section 14-408 *Permitted temporary uses – Farmers' markets* as it is no longer needed given the creation of Farmer's Markets as a regular use.

**Process and Notification** : The Planning Department held a meeting June 4, 2020 that was announced through email to discuss possible amendments to the Zoning Code and to solicit additional ideas and concerns. Just prior to the June 4<sup>th</sup> meeting we created a webpage directly from the Department of Planning's home page that served as an information and comment portal. The majority of comments were in either strong support or strong opposition to removing parking requirements. Based on the controversy regarding parking and the introduction of another zoning bill regarding parking, we eliminated those amendments. In early August we published on our web page a tabular summary of the amendments that have become City Council Bill #20-0601. Notification for this hearing went to our nearly 20,000-person email list.



**Chris Ryer**  
**Director**