

<b>FROM</b>	NAME & TITLE	THOMAS J. STOSUR, 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 #18-0209/ ZONING CODE – MODIFICATIONS		

**TO**

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

DATE: April 23, 2018

At its regular meeting April 19, 2018 the Planning Commission considered City Council Bill #18-0209, for the purpose of making needed improvements to certain provisions that, during the course of actively implementing the new Zoning Code, were discovered to be functionally impractical or otherwise in need of modification to abate previously unanticipated consequences; correcting various errors, omissions, and inconsistencies; correcting, clarifying, and conforming various references and terminology; and generally relating to the zoning and development laws of the City of Baltimore.

In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended amendment and approval of City Council Bill #18-0209, and adopted the following resolution, nine members being present (nine in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its Departmental staff, and recommends that City Council Bill #18-0209 be passed by the City Council.

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

TJS/ewt

attachment

- cc: Mr. Pete Hammen, Chief Operating Officer  
 Mr. Jim Smith, Chief of Strategic Alliances  
 Ms. Karen Stokes, Mayor's Office  
 Mr. Colin Tarbert, Mayor's Office  
 Mr. Kyron Banks, Mayor's Office  
 The Honorable Edward Reisinger, Council Rep. to Planning Commission  
 Mr. William H. Cole IV, BDC  
 Mr. Derek Baumgardner, BMZA  
 Mr. Geoffrey Veale, Zoning Administration  
 Ms. Sharon Daboin, DHCD  
 Ms. Elena DiPietro, Law Dept.  
 Mr. Francis Burnszynski, PABC  
 Ms. Katelyn McCauley, DOT  
 Ms. Natawna Austin, Council Services



Catherine E. Pugh  
Mayor

## PLANNING COMMISSION

Sean D. Davis, Chairman

### STAFF REPORT



Thomas J. Stosur  
Director

April 19, 2018

**REQUEST:** City Council Bill #18-0209/ Zoning Code – Modifications: for the purpose of making needed improvements to certain provisions that during the course of actively implementing the code were discovered as functionally impractical, inconsistent or in need of clarification.

**RECOMMENDATION:** Amend and Approve

#### Amendments

Staff is recommending two amendments to the bill. The first is to delete page 17, lines 8-24 and the table edit on page 19 to Table 9-301. This item was intended to make it easier for a non-conforming liquor store, subject to amortization, to convert to a different commercial use. After further review, the zoning staff was not comfortable with this blanket approval as they are concerned a given application may not meet Neighborhood Commercial standards. Without this provision, the reuse would be conditional to the Board and would trigger public hearing.

The second amendment is clerical in nature. In Table 12-501 Educational Campus, there is an incorrect reference to use standards that should be deleted. Dwellings are listed as permitted subject to §14-327, and it is the §14-327 that is in error and should be deleted.

**STAFF:** Laurie Feinberg

**PETITIONERS:** City Council President on behalf of the Administration

#### **HISTORY**

- On March 21, 2013, the Planning Commission reviewed and forwarded a comprehensive list of recommendations on CCB #12-0152 (later adopted as Ord. #16-581).
- On September 19, 2013, the Planning Commission reviewed additional amendments and forwarded its recommendation on CCB #12-0152.
- On December 5, 2016, CCB #12-0152 was signed by the Mayor as Ord. #16-581, to take effect on June 5, 2017.
- On May 16, 2017, CCB #17-0021/ Baltimore City Zoning Code – Legalization – Corrections was signed by the Mayor as Ord. #17-015, dated May 16, 2017.

#### **ANALYSIS**

**Background:** After a number of years of effort to establish a comprehensive replacement of the Zoning Code, it was approved by the City Council on the last day of the Council session, December 5, 2016 and then signed by the Mayor. During the spring of 2017, prior to the effective date, Law, Planning, Zoning, and Legislative Reference staff worked on CCB #17-0021. This bill corrected typos, spelling, incorrect references, and similar issues. These items fell under a corrective bill.

The current bill contains modifications that did not fall under the correction umbrella and other items that were discovered since the June 5, 2017 implementation.

There are approximately 30 amendments to the code and the bill includes explanatory comments for each item. Most of them are very minor changes and result from experience using the new code. Some of the amendments are a result of challenges in enforcement from inspectors.

The first amendment restates for greater clarity that if a use is not listed as permitted or conditional it is expressly prohibited. The bill recommends changing the name of gyms from Health Centers to Health and Fitness Centers for clarity. This change is in the text and in tables.

There are three recommended administrative changes, one that deletes the requirement of a 5pm Board of Municipal and Zoning Appeals (Board) hearing, as this has proven unnecessary and impractical. The second removes a requirement that Planning Department reviews be done in public and with notice. These include design, landscape, site plan and environmentally sensitive reviews. They are done by staff on a daily basis as part of permit review, and are impractical to notice or to be done in public. The third change is to remove the requirement for a zoning appeal to be sent to the State Critical Area Commission that was an error.

Two changes deal with variances, one to make explicit that variance procedures apply to signage, parking and loading in conformance with long-standing Board practice and the second is to add a portion of variance standards that were inadvertently left out.

The bill recommends added clarification language on establishing a conditional use that either construction has begun or use has been established. This is relevant where a conditional use does not require construction.

During the hearings for City Council Bill #12-0152, the zoning code rewrite, there were a number of items that were voted favorably by committee but did not get into the 2<sup>nd</sup> reader copy. These include clarifications to the standards for a rezoning in a Maritime Industrial (MI), District. A second change that had been voted favorably was to give the Board, through a variance process, the authority to expand a non-conforming use or structure up to 25%. This is limited to Commercial, Industrial and TOD districts.

The bill recommends removing a section in Educational Zones, which deems buildings built prior to June 5, 2017 conforming, regardless of their bulk or height. This creates a situation where if such a building were to burn to the ground, it would not benefit from the non-conforming rules which would allow rebuilding.

There are a number of changes recommended by Housing Inspection and Code Enforcement intended to clarify rules and make compliance easier. They include a clarification that an auto dealer in a mixed use complex does not need to comply with minimum lot requirements and that screening by 6 foot solid fence is required when these establishments are visible from residential districts.

There is a clarification in Neighborhood Commercial Establishment standards that since the uses are by definition in existing buildings they should not be subject to minimum lot requirements and to

relocate the parking reference in Title 14 to Title 16 *Off-Street Parking and Loading*, to avoid redundancy and conflict.

In order to relieve some of the burden of raising new buildings out of the flood plain areas, this bill recommends calculating the height limit from the required elevation in flood areas.

Clear height dimensions were removed from sections of the Off-Street Parking and Loading Title because they conflict with other codes. Requirements for limiting paving were eased for small lots. This bill also clarifies that any recreational vehicles in residential areas must be covered in a garage or similar, or be in a rear yard.

There are a number of wording corrections such as flood plain versus Floodplain.

Table edits include adding mini-warehouse in C-5 when in an existing building, and removing build-to lines in C-5 as they are covered in design review and can be impractical when ramps and steps are needed. Corner side yard requirements were removed from the high density residential areas as they are not consistent with existing urban patterns.

Rooming Houses were added to list of uses in I-MU as conditional at the recommendation of artist housing groups. Health and Fitness was added to the mixed use industrial areas, I-MU, BSC and OIC. Auto repair facilities were added to both I-1 and I-2, industrial areas.

The bill recommends minor changes to Table 15-601 Permitted Encroachments into Required Yards. They include a limit on the size of storage sheds in residential areas, removing deck and adding unenclosed porch for consistency and adding bicycle parking in all yards and off street loading and parking in rear and side yards.

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Notification of this action was sent to over 10,000 subscribers using GovDelivery.



**Thomas J. Stosur**  
**Director**

**AMENDMENTS TO COUNCIL BILL 18-209  
(1<sup>st</sup> Reader Copy)**

Proposed By: Planning Commission  
{To be offered to the Land Use and Transportation Committee}

**Amendment No. 1**

On page 1, at the end of line 5, strike the second semi-colon; and, on the same page, in line 14, strike “18-306(b),”; and, on the same page, in line 17, strike both “9-301,” and “12-301,”; and, on page 17, strike lines 8 through 24, in their entireties; and, on page 19, strike beginning with “**Table 9-301**” through the end of that page; and, on page 25, strike beginning with “**Table 12-301**” through the end of that page.

**Amendment No. 2**

On page 1, in line 17, after “12-403,” insert “12-501,”; and, on page 27, after the end of the Comment to Table 12-403, insert the following amendment to Table 12-501:

**“Table 12-501: Educational Campus Districts –  
Permitted and Conditional Uses**

USES	DISTRICTS		USE STANDARDS
	<u>EC-1</u>	<u>EC-2</u>	
<b><u>RESIDENTIAL</u></b>			
Dormitory (Ancillary to Educational Facility)	<u>P</u>	<u>P</u>	
Dwelling (Ancillary to Educational Facility)	<u>P</u>	<u>P</u>	<u>[Per § 14-327]</u>
Fraternity or Sorority House		<u>P</u>	<u>Per § 14-313</u>
Rooming House (Ancillary to Educational Facility)		<u>CB</u>	
<b><u>INSTITUTIONAL</u></b>			
<u>....</u>			

....  
**COMMENT:** Deletes inapposite use-standard reference.”.