

LIBER 0005 FOLIO 0217

COUNTY COUNCIL
OF DORCHESTER COUNTY, MARYLAND

FILED

04 SEP 20 AM 11:58

2004 Legislative Session,
Legislative Day No. August 17, 2004

Introduced by: County Council

Bill No. 2004 - 12

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY,
MARYLAND, TO AMEND CHAPTER 155, ARTICLE I, SECTION 155-3 thru 155-10
OF THE DORCHESTER COUNTY CODE TO PROVIDE UPDATE TO
AMENDMENT PROCESS AND NOTICE REQUIREMENTS UNDER NEW
CHARTER GOVERNMENT.

Introduced, read first time, order posted on official bulletin board of Dorchester
County, County Office Building, 501 Court Lane, Cambridge, Maryland 21613.

Ordered publication for once a week for two (2) successive weeks, and public
hearing scheduled on Tuesday, ~~September 14~~, 2004, room 110, County
Office Building, 501 Court Lane, Cambridge, Maryland at ~~6:15~~ p.m.

By Order:

Jane Baynard
Jane Baynard, County Manager

AN ACT OF THE COUNTY COUNCIL OF DORCHESTER COUNTY, MARYLAND, TO AMEND CHAPTER 155, ARTICLE I, SECTION 155-3 thru 155-10 OF THE DORCHESTER COUNTY CODE TO PROVIDE UPDATE TO AMENDMENT PROCESS AND NOTICE REQUIREMENTS UNDER NEW CHARTER GOVERNMENT.

SECTION ONE: Acting under Article 25A, Section 5(x) of the Annotated Code of Maryland (the "Act"), be it ENACTED and ORDAINED by the County Council of Dorchester County, Maryland that Chapter 155, ARTICLE 1, Section 155-3 thru 155-10 of the Dorchester County Code be repealed and reenacted to read as follows:

ARTICLE I, GENERAL REGULATIONS

§ 155-3. Interpretation and enforcement; duties of County Commissioners COUNCIL

A. Interpretation and enforcement

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Director of Planning and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Director of Planning and that recourse from the decisions of the Board of Appeals shall be the courts.

B. Duties of ~~Commissioners~~ COUNCIL

It is further the intent of this chapter that the duties of the County ~~Commissioners~~ COUNCIL in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. Under this chapter, the County ~~Commissioners~~ COUNCIL shall have only the duties of considering and adopting or rejecting proposed amendments to the text and the maps or the repeal of this chapter as stated in § 155-5 of this chapter; establishing a schedule of fees, charges and expenses as stated in § 155-4 of this chapter; creation of the Planning Commission and appointment of its members as stated in Article III of this chapter; and creation of the Board of Appeals and appointment of its members as stated in Article IV of this chapter.

§ 155-4. Schedule of fees and charges

The County ~~Commissioners~~ COUNCIL shall establish a schedule of fees, charges and expenses and a collection procedure for applications for special exceptions, variances, amendments, appeals, permits and other matters pertaining to this chapter. Such schedule shall be posted in

the office of the Director of Planning and may be altered or amended, from time to time, without a public hearing, only by the County ~~Commissioners~~ **COUNCIL** upon the recommendations of the Planning Commission. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal pertaining to this chapter.

§ 155-5. Amendments

A. General amendment requirements

1. Amendments authorized

The regulations, restrictions, definitions, districts, classifications and boundaries set forth in this chapter may, from time to time, be amended, supplanted, modified or repealed by the County ~~Commissioners~~ **COUNCIL**. The reclassification of any property and the relocation of any district boundary shall be deemed amendments to this chapter and subject to the provisions of this section.

2. Initiation

Proposals for amending the zoning ordinance text or Official Zoning Maps may be made by any governmental agency or by an individual with a committed financial, contractual or proprietary interest in real property located within the county's zoning jurisdiction. Such proposals for text amendments shall be in the form as prescribed by the Director of Planning and shall be addressed to and filed with the County ~~Commissioners~~ **COUNCIL**. Such proposals for map amendments shall be in the form as prescribed by the Director of Planning, shall be addressed to and filed with the County ~~Commissioners~~ **COUNCIL** and, if the proposal is made by an individual other than the owner of record of the property, shall be cosigned by the owner.

3. Procedure

- a. Any officially filed amendment or other change shall first be referred by the County ~~Commissioners~~ **COUNCIL** to the Planning Commission for an investigation and recommendation. The Planning Commission shall make such investigations as it deems appropriate or necessary and may direct the Director of Planning to make such other investigations as the Planning Commission deems appropriate or necessary and, for these purposes, may require the submission of pertinent information by any persons concerned and may hold such

formal or informal public hearings as are appropriate in the Planning Commission's judgment. In addition, the Planning Commission shall formulate its recommendation on said amendment or change and shall submit its recommendation and pertinent supporting information to the County ~~Commissioners~~ **COUNCIL** within 60 days after the Planning Commission's first regular meeting after receipt of said amendment from the County ~~Commissioners~~ **COUNCIL**, unless an extension of time is granted by the County ~~Commissioners~~ **COUNCIL**.

- b. After **THE COUNTY COUNCIL** ~~receiving~~ **RECEIVES** the recommendation of the Planning Commission, ~~concerning any such amendment to this chapter, and before adopting or denying the same,~~ the County ~~Commissioners~~ **COUNCIL** shall **DETERMINE WHETHER OR NOT THE PROPOSAL IS SUITABLE TO WARRANT THE INTRODUCTION OF LEGISLATION PURSUANT TO SECTION 303 OF THE COUNTY CHARTER AND UNLESS THE BILL IS REJECTED BY AN AFFIRMATIVE VOTE OF AT LEAST FOUR COUNCILMEMBERS, THE COUNTY COUNCIL SHALL** hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The County ~~Commissioners~~ **COUNCIL** shall give public notice of such hearing in accordance with the provisions of § 155-6 of this chapter.
- c. No change in or departure from the proposed amendment as recommended by the Planning Commission shall be made by the County ~~Commissioners~~ **COUNCIL** until said change or departure has been resubmitted to the Planning Commission for its further review and recommendation and the County ~~Commissioners~~ **COUNCIL** have **HAS** received said additional recommendation. However, this provision will not apply to proposed sectional or comprehensive map and text amendments.
- d. A majority vote of the entire body of the County ~~Commissioners~~ **COUNCIL** shall be required to pass any amendment to this chapter.
- e. A complete record of the public hearing and the votes of all members of the County ~~Commissioners~~ **COUNCIL** in deciding all questions relating to the proposed amendment shall be kept.

B. Map amendments

1. Findings

- a. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the

County ~~Commissioners~~ **COUNCIL** shall make findings of fact in each specific case, including but not limited to the following matters: the population change, the availability of public facilities, the present and future transportation patterns, the compatibility with existing and proposed development, and the compatibility with the county's Comprehensive Plan. The County ~~Commissioners~~ **COUNCIL** may grant the reclassification based upon a finding that there was a substantial change in the character of the neighborhood where the property is located since the last rezoning of the property or that there was a mistake in the last zoning classification and that a change in the zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

- b. The fact that an application for reclassification complies with all of the specific requirements and purposes set forth in this chapter shall not be deemed to create a presumption that the proposed reclassification and resulting development would, in fact, be compatible with surrounding land uses and is not, in itself, sufficient to require the granting of the application.

2. Application requirements

a. Applications generally

Every application for a map amendment shall be accompanied by a plat, drawn to scale, showing the existing and proposed district and property boundaries and such other information as the Director of Planning may need in order to locate and plot the amendment on the Official Zoning Maps. Such plat shall not be required for sectional or comprehensive reclassifications. No application for map amendments shall be accepted for an I district unless the area contains ten acres or more.

b. Application for reclassification

No application for reclassification shall be accepted for filing by the County ~~Commissioners~~ **COUNCIL** if the application is for the reclassification of the whole or any part of land for which the County ~~Commissioners~~ **COUNCIL** have denied reclassification within 12 months from the date of the decision of the County ~~Commissioners~~ **COUNCIL**. However, the County ~~Commissioners~~ **COUNCIL** may allow an applicant to withdraw an application for a map amendment at any time, by resolution, without prejudice, provided that, if the request for withdrawal is made after publication

of the notice of a public hearing, no application for reclassification of all or any part of the land which is the subject of the application shall be allowed within 12 months following the date of the resolution of the County Commissioners COUNCIL approving such withdrawal.

3. Changing the Official Zoning Maps

It shall be the duty of the Director of Planning to change the Official Zoning Maps forthwith upon the adoption of any map amendment, in order that said maps shall always be an up-to-date public record of the districts in the county.

4. Reversion clause

- a. In all map amendment cases, the County Commissioners COUNCIL shall be satisfied that the applicant for the rezoning intends to use or begin construction for the purpose of using the requested zoning within two years of the date of approval of the change in zoning. For the purposes of this subsection the term "use or begin construction" means either:
 - i. Submission to the county of a site plan,
 - ii. Application for a building permit for structures comprising a substantial portion of the improvements, or
 - iii. Substantial completion of construction.
- B. If the applicant should fail to use or begin construction of the project within two years of the approval of the change in zoning or complete the construction within a reasonable period, the approval shall become void, and the land shall revert to its original zoning classification.
- C. The County Commissioners COUNCIL may extend the deadline for compliance with this section for up to one year upon petition of the applicant showing a good faith effort to meet the deadline. Application to the County Commissioners COUNCIL must be made prior to the expiration of the change in zoning.

§ 155-6. Requirements for public notices

Unless otherwise expressly provided by law, all notices to the general public required by the terms of this chapter shall be made as follows:

A. Posting

By posting the property affected or to be affected by the pending proceeding. Such posting shall be made at least 15 days prior to the public hearing on such proceeding by the erection of a sign to be furnished by the Director of Planning. Such sign shall be erected by the Director of Planning within 10 feet of whatever boundary line of such land abuts the most traveled public road so as to be clearly visible to the public and, if no public road abuts thereon, then facing in such a manner as most readily may be seen by the public in the judgment of the Director of Planning. The bottom of the sign shall be not less than two and one-half feet from the ground. Any sign required to be posted by this provision shall be maintained in a visible location and free from obstruction by brush, weeds or other growth until after the public hearing is held. Such posting of the site shall not be required for sectional or comprehensive amendments procedures.

B. Advertising

All proceedings under the terms of this chapter requiring a public hearing shall be advertised by the governmental body conducting the hearing at least once **A WEEK FOR TWO SUCCESSIVE WEEKS** in a newspaper of general circulation in the County, not less than ~~15~~ 14 days prior to the date such proceeding is scheduled for hearing, which advertisement shall state the following:

1. The date, time and place of such hearing.
2. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
3. The location of the property involved, its area, the name of the owner and the file or case number of the proceeding and the name of the governmental body before which such proceeding is to be conducted.
4. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

C. Mailing

EXCEPT IN CASES OF A PROPOSED AMENDMENT TO THE TEXT OF THIS ORDINANCE OR A PROPOSED SECTIONAL OR COMPREHENSIVE ZONING MAP AMENDMENT, whenever the application of this chapter requires the holding of a public hearing, the governmental body conducting such hearing shall give at least 15 days' notice of the time and place of such hearing to be mailed by regular United States mail, first class postage prepaid,

to the initiator of the proceeding and to the owners of all property contiguous to the property with which the hearing is concerned and of all properties opposite said property, measured at right angles to any intervening road or body of water less than 1,000 feet in width. Said mailed notice shall be directed to the address to which the real estate tax bill for the property is sent. Said notice shall contain the same information as the published notice required by this section of this chapter. Notification of property owners shall not be required for proposed sectional or comprehensive map amendment procedures or for proposed sectional or comprehensive map amendment procedures or for proposed amendments to the ordinance text. **FAILURE OF A PERSON TO RECEIVE THE NOTICE PRESCRIBED IN THIS SECTION SHALL NOT IMPAIR THE VALIDITY OF THE HEARING.**

§ 155-7. Compliance with the ordinance is required

No building, structure, land or part thereof shall hereafter be used, occupied, altered, erected, constructed or reconstructed, unless in conformity with this chapter. Activities not in compliance with this chapter shall be expressly prohibited. It is the intention of this ordinance that it be interpreted as excluding any use that is not expressly permitted whether as a permitted, accessory, or special exception use.

§ 155-8. Building permits

A. Building permit required

It shall be unlawful to locate or begin the excavation, erection, construction, reconstruction, extension, conversion or structural alteration of any building or structure without first obtaining a building permit from the Director of Planning. Ordinary repair and maintenance which only restore or preserve a building or structure in its existing form and do not change the use or configuration are exempt from the requirements of this section.

B. Application requirements

1. Contents

Every application for a building permit, signed by the applicant, shall be accompanied by plans, drawn approximately to scale, showing the shape and dimensions of the lot to be used or built upon; the exact location, size and height of any building or structure to be erected or altered; the existing or intended use of each lot or building; the number of family or housekeeping units the building is intended to accommodate; and such other

information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. All lot dimensions on these plans shall be based on actual survey or deed description. The lot and location of the building, structure or other improvement shall be staked out on the ground before construction is started.

2. Voiding an inactive application

The Director may void an application for a building permit at any time beginning 90 days after it has been filed if he determines that the application has become inactive.

C. Issuance

No building permit shall be issued until the proposed water supply system and disposal of sanitary wastes have been approved by the County Health Department; the requirements of the Dorchester County Sanitary Commission have been met if the property is in a sanitary district; the stormwater management permit and the grading permit have been issued by the respective agencies empowered to do so, unless those agencies have indicated that the activity or structure is exempted or waived from their regulations; the proposed location and design of any driveway or drainage structures to be connected with any public road or drainage system have been approved by either the county highway department or state highway administration, whichever has jurisdiction; and the procedural requirements of the Dorchester County Electrical Board have been met.

D. Expiration; extension

A building permit shall become void one year after the date of issuance, and any existing building permits issued prior to this chapter shall become void one year after the effective date of this chapter if the construction or use for which the certificate was issued has not been started, as defined herein, and has not been carried on in a diligent manner, except that the Director of Planning may extend such period for one additional year if, in his opinion, such extension is justified.

E. Building permit is revocable

A building permit shall be revocable, subject to continued compliance with all requirements and conditions of this chapter. The Director may issue a stop work order until compliance with this chapter is achieved.

F. Building permit is not transferable

A building permit is not transferable to a new owner unless start of construction/conversion, as defined in this chapter, has taken place.

§ 155-9. Essential services

Essential services shall be permitted in any district, it being the intent hereof to exempt such essential services from the application of this chapter.

§ 155-10. Applicability of provisions

A. Except as provided for below in subsection B, this chapter shall apply to all lands, structures and buildings within Dorchester County, including all submerged lands, water areas and islands, but not including lands, buildings, waters and properties lying within the zoning jurisdiction of the county's incorporated municipalities, unless a municipality has, by resolution, requested the county to exercise such authority over its jurisdiction and the County Commissioners, by resolution, have accepted such authority, in which case this chapter shall also apply to all lands, buildings, waters and property within such requesting municipality.

B. This chapter shall not apply to:

1. Land, structures and buildings owned by the County ~~Commissioners~~ COUNCIL of Dorchester County or by any agency of the county, including the Dorchester County Board of Education.
2. Land, structures and buildings leased to the County ~~Commissioners~~ COUNCIL of Dorchester County or by any agency of the county, including the Dorchester Board of Education, for so long as such lease is in effect.
3. Land, structures and buildings under contract with the County ~~Commissioners~~ COUNCIL of Dorchester County or by any agency of the county, including the Dorchester County Board of Education, to provide a public service for so long as such contract is in effect.

SECTION TWO: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY that General Code Publishers is directed to codify amended Section 155-3 thru 155-10 of Chapter 155 in the Dorchester Code accordingly.

SECTION THREE: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY, that this bill shall be known as Bill No. 2004-12 of Dorchester County, Maryland and shall take effect sixty (60) days after its final passage.

PASSED this 14th day of September, 2004.

ATTEST:

COUNTY COUNCIL OF DORCHESTER
COUNTY:

BY: Jane Baynard
Jane Baynard, County Manager

Glenn L. Bramble
Glenn L. Bramble, President

Bramble - ay
Yockey - ay
Elzey - ay
Flowers - ay
Nichols - ay