

## **Article 18 Update Legislation Summary Report December 19, 2025**

### **Purpose and Overview**

The County's Zoning Code has not been comprehensively reviewed and updated since 2005. Since that time, hundreds of individual zoning text amendments have been adopted. For example, in the past three years roughly 100 zoning text amendments have been considered by the County Council. Most of these Code amendments are written narrowly to address a particular topic or specific stakeholder need. While this is common practice, it creates a need to periodically review the Zoning Code holistically to ensure that all sections of the Code work harmoniously and that the regulations are functioning as intended or as needed. Ideally, a Zoning Code should be reviewed comprehensively every three to five years or, at minimum, after each Comprehensive Plan update. It is noted that a number of key stakeholder groups including GAN, MBIA, NAIOP, and land use attorneys, have been requesting this type of update for the past several years.

To this end, the Office of Planning and Zoning has been tracking needed changes to the Zoning Code for a number of years. When the Administration gave support to move forward with this effort in 2023, the list of amendments contained over 200 line items to be addressed. Since that time, the list has grown to over 300 line items. Successful legislation to complete this multi-year effort will be a significant legacy accomplishment for this Administration and Council.

The list of proposed amendments covers a wide range of topics. In general, the purpose of these amendments is to update outdated terminology or provisions, add or revise allowed uses, address inconsistencies, revise regulations that are difficult to implement, update regulations to reflect current policy, and improve the overall applicability of the Zoning Code. A number of the proposed changes address needs identified by development stakeholders.

In addition, the General Development Plan recommends that the County review and update its Zoning Code to implement various strategies recommended in the Plan. To date, a number of these implementation strategies have been addressed in separate legislation including APF regulations, moderately priced dwelling units, missing middle housing, mixed use development, and redevelopment incentives. This Zoning Code update will address some additional GDP recommendations, such as the inclusion of purpose and intent statements for each zoning district.

### **Public Review Process**

A preliminary draft list of proposed amendments to the Zoning Code was announced by the Administration in August and was made available on the OPZ website for public review and comment for a six-week period between August 11th and September 19th. Roughly 225 comments were received. The number of comments received by some key stakeholder groups is noted below.

- MBIA: 40
- NAIOP: 43
- GAN: 37
- General public or County staff: 105

All of the comments were reviewed and considered by OPZ staff with input from the Law Office, and as noted above, a number of comments from both MBIA and NAIOP have been included in the final draft list of proposed amendments.

### **Summary of Proposed Amendments**

- The master list of proposed amendments contains 332 line items, which are grouped into nine categories as described in the following section.
- There were 127 line items that changed between the Public Review Draft and the Final Draft. These include additions, deletions, and revisions based on either comments received or Law Office review. The final draft master list notes all line items that changed along with a brief explanation.
- Seven line items have been removed from the proposed legislation but are retained in the master list for public tracking.
- The number of line items is larger than the number of amendment topics. This is because several topics require that multiple line items be incorporated into various Code sections.

### **Description of Amendments**

Category	Description	Number of Items
I	These amendments revise an existing definition to clarify how the term is used, to broaden or to limit its use, or to modernize terminology.	22

#### *Examples:*

- *The definition of "density" was revised to indicate that certain dwelling types (ex. ADUs) do not count toward density calculations.*
- *The definition of "restaurant" was revised to remove the requirement for onsite consumption and to classify establishments that only offer take-out, drive-thru, or delivery services as a restaurant.*

Category	Description	Number of Items
II	These amendments add a new definition for an existing term that is used but not defined in the Code and that therefore has led to questions about what the term does or does not encompass.	57

*Examples:*

- *"Pet care business" and "pet day care facilities" are defined to distinguish the two uses (one is a home occupation, the other is not) and to disallow training of attack dogs.*
- *"General manufacturing and processing" is defined to better inform as to what activities are encompassed by this use.*
- *"Pile driving and marine construction operations" was the subject of recent legislation and the lack of a definition led to questions about what activities are allowed under this use.*

Items to Note:

- Added a definition for "Recreational Vehicle" to clearly establish that these are used for temporary living quarters for recreation and travel, and not as permanent dwelling units. OPZ frequently receives complaints about RVs allegedly being used as permanent dwellings.

Category	Description	Number of Items
III	These amendments add a new allowed use that is not currently allowed in the Code, delete an allowed use, or amend the title of the use and/or related conditions that apply to the use.	110

*Examples:*

- *The use "contractor and construction shops and yards" was deleted and two new uses – "general contractor" and "limited contractor" – were added in order to allow a less impactful type of contractor (ie. less outside storage) in some of the lighter commercial districts.*
- *Added "food trucks" as a new conditional use, with conditions, in residential districts and as a permitted use in commercial districts, since these have become popular and are not adequately addressed in the Code.*
- *Revised the special exception requirements for assisted living facilities to lower the minimum lot size and open area requirements in certain zoning districts (per request from MBIA).*

Items to Note:

- Defined and added "transitional housing" as a conditional use (with a condition limiting the number of bedrooms based on property size) in residential districts, and as a permitted use in the C1, C2, C3 and C4 districts per request from ACDS.
- Removed the conditional and special exception requirements that limit B&B homes and inns in the R1, R2 and R5 districts to only certain geographic locations primarily in waterfront communities in the southern portions of the County. There is no logical basis to disallow B&Bs in other parts of the County.

Category	Description	Number of Items
IV	These amendments clarify how an existing Code provision is currently interpreted or applied, and also include structural changes such as when a provision is relocated to another section of the Code.	41

*Examples:*

- *Added language to clarify that OPZ has the right to enter a property for purposes of inspection prior to issuing a zoning certificate of use.*
- *Added language to clarify that a farm tenant house must be occupied by a person working on the farm where the tenant house is located.*
- *Added language to clarify how the standards for nonconforming uses are applied and that the burden of proof of evidence falls on the property owner/applicant.*
- *Numerous changes were made to change the term "facility" to "structures" since the two have different meanings but were being used interchangeably.*

*Items to Note:*

- Revised the language regarding parking requirements for workforce housing and reductions for bicycle storage, to correct confusing language and make the intent clear.
- Added language that states OPZ will send notice to all property owners within 300 feet of a property that has applied to register as a nonconforming use. Although not a codified requirement, this has been the ongoing practice by OPZ since it is consistent with notice requirements for other types of zoning applications.

Category	Description	Number of Items
V	These amendments are made to expand upon an existing provision or to reflect a change in how that provision will be applied, often to facilitate use of the Code by developers, attorneys, or property owners. Many of these items have been requested by constituents who use the Code frequently and find the existing provision to be impractical or overly constraining.	36

*Examples:*

- *Added language to allow that expansion of an existing single family dwelling on a nonconforming lot may comply with the bulk regulations in the underlying zoning district if less restrictive, to provide more flexibility for homeowners on older, smaller lots to make home improvements.*
- *Added language related to in-kind replacements to allow long standing structures that have been damaged or destroyed by fire or natural catastrophe to be replaced without the need for a variance.*
- *Added language to allow that on a site that exceeds the maximum allowed lot coverage, redevelopment or reconfiguration of improvements on the site may not result in an*

*increase of coverage, but that the existing excess coverage does not have to be removed.*

- *Added language to explain how bulk requirements will be applied to lots that are located in more than one zoning district. This is currently not sufficiently addressed and so has led to inconsistent interpretations and application.*
- *Added several line items to the parking requirements chart to specify the amount of parking required for specific uses that were not adequately addressed.*

Items to Note:

- Revised the regulations related to onsite parking for mixed use projects to remove the requirement that it must be located in the rear of the site. While rear parking is preferred aesthetically, MBIA has noted this is not always practical from a site design perspective.
- Revised the provision that allows for building height increases in commercial and industrial districts when Environmental Site Design (ESD) is provided for SWM. This provision is rarely used and all projects are required to use ESD to the Maximum Extent Practical under current SWM regulations. The additional height would now be granted based on increased setbacks alone and not on the provision of ESD.
- Revised conditional use requirements for auto gas stations to allow convenience stores, car washes, and minor repair work as part of the operation.
- Changed the requirement for a pre-file meeting prior to submitting a zoning application from a mandatory requirement to voluntary. This will help to shorten the process for those applications where a pre-file meeting is not warranted.
- Changed the current allowance for modifying a zoning application from 10 days to 21 days before the AHO hearing. Ten days is insufficient time for staff to review and revise recommendations and meet the legal requirements for posting.

Category	Description	Number of Items
VI	These amendments make changes to the Code for consistency with other County or State laws.	13

*Examples:*

- *Revised the requirement for the County to review and update the GDP from eight year intervals to ten year intervals. The State has adjusted the statewide requirement to ten years, and this will also coincide with releases of new decennial Census data.*
- *Amended the definition of "state-licensed medical clinics" to reflect changes that have been made in the State Code.*

Items to Note:

- Adjusted the requirements for accessory dwelling units to state that an ADU may not exceed 75% of the floor area of the principal dwelling. Currently, except for a detached ADU, our code requires that an attached or internal ADU must only be "smaller than" the principal dwelling. Senate Bill 891 placed the 75% size limit on ADUs and will become

effective on Oct. 1, 2026. Note: Our Code's size limit on *detached* ADUs is stricter than the State law and can remain as is.

- Removed the prohibition that a mobile home cannot be used as a dwelling unless located within a mobile home park. House Bill 538 allows mobile homes to be placed outside of mobile home parks statewide. The use will now be a conditional use in all residential districts where single family dwellings are allowed.
- Removed many of the special exception requirements for sand and gravel mining operations from the Code because the County is preempted by State law from enforcing the conditions.

Category	Description	Number of Items
VII	These amendments add a Purpose and Intent statement to the Code for each zoning district. These are commonly used in zoning codes to relate zoning districts to the local land use plans since zoning is an implementation tool, and they are useful in the administrative zoning and comprehensive zoning processes.	21

*Examples:*

- *Added this statement: The RA - Rural Agricultural District is intended to preserve and foster agricultural and related uses of land and to preserve the rural character of the area in which the district is located.*
- *Added this statement: The R15-Residential District is intended to provide the opportunity for high-density residential development of primarily multifamily dwellings..*
- *Added this statement The C2-Commercial District is intended to provide office space and a range of commercial uses that typically support office and employment uses. The C2 District may also include a range of residential dwelling types under certain circumstances.*

Items to Note:

- Purpose and intent statements were historically included in the Zoning Code but were removed during the 2005 Code update. The GDP recommends that these statements be included in the Zoning Code.

Category	Description	Number of Items
VIII	These amendments add a new zoning provision to the Code.	16

*Examples:*

- *Added a new provision allowing that when an Administrative Zoning District Line Adjustment is approved and the land use plan designation does not match, OPZ may administratively adjust the land use plan to match the corrected zoning line. This will avoid the need for additional legislation for this type of map clean up.*

- *Added a new provision that clarifies the rules of governance when the zoning code conflicts with other County or State laws.*
- *Added a new provision that states that a property must be used in accordance with the approved zoning certificate of use or site development plan, when such is required.*
- *Added a new provision that limits subsequent nonconforming use applications from being considered for the same use after denial. Denials, after appeals, are final regardless of a change in ownership.*

Items to Note:

- Added a new provision to allow existing dwelling types that are now allowed uses in the underlying zoning district (primarily duplexes and triplexes) but that do not comply with the current bulk regulations, to be considered conforming uses so that they are not required to obtain NCU registration or variances to bulk regulations.
- Added a requirement that the Zoning Code be interpreted consistently with the GDP and that the Council be advised of GDP consistency with regard to proposed Zoning Code text amendments. This is a recommended strategy in the GDP.
- Added a new provision to clarify that RVs and motor vehicles may not be used as a dwelling unit.

Category	Description	Number of Items
IX	These amendments remove an existing zoning provision from the Code, generally because it is considered to be outdated or not consistent with current policy.	16

Examples:

- *Removed a conditional use requirement for nursing homes that states that when used in whole or part for "contagious, mental, or drug or alcohol addiction cases", the structure shall be located at least 200 feet from all lot lines. Interpretation of this condition is not clear and it is overly restrictive.*
- *Removed the special exception requirements for rubble landfills since they are no longer listed as an allowed use in the Code and so the special exception requirements are no longer applicable.*
- *Removed the special exception requirements for pawnshops. Special exception requirements and approval are overly restrictive for this use and the use should be allowed as a permitted use in the C3 and C4 districts.*
- *Removed the requirement for notice of an administrative hearing with regard to "confronting and adjoining" properties, and instead will require the notice to be sent to all properties within 300 feet of the subject property. The current requirement regarding confronting and adjoining properties causes substantial confusion with the public and has been difficult for applicants to comply with and for OPZ to verify.*

Items to Note:

- Changed "State-licensed medical clinics" from a conditional use to a permitted use in all districts where allowed and removed the conditions. The conditional use requirements are considered unnecessary and overly limiting, and the use should be treated the same as a professional medical office.
- Removed the allowance for a "Twenty Year Registered Use" from the Code. This does not represent best practices on zoning or sound land use policy.
- Removed the conditional use requirement for "Group Homes, Assisted Living Facilities, and Rooming Houses" that prohibits two facilities under one ownership from adjoining each other. This policy violates fair housing laws and cannot be enforced. This condition was added to the Code by Councilman Volke.
- Removed the OS-C Open Space Conservation Overlay from the Code. This overlay has not been mapped since its inception, and the current policy is to apply the OS district for both active and passive recreation lands as well as conservation lands. Other environmentally-sensitive areas are protected by the development regulations in Article 17 and are commonly included in required forest conservation and open areas.