



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:

Case No. ZRA- 169

Date Filed: 2-29-16

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: amend Section 128.0.D in order to provide 1) that Modular Office Buildings may be used in locations approved by the Hearing Authority as part of a Conditional Use Plan; 2) to provide that Office Trailers may be physically converted into Modular Office Buildings; and 3) to provide that in all zoning districts, a Storage or Refuse Container may be used provided it is screened and not visible from adjoining properties or from the public street right-of-way, and provided it complies with all applicable setbacks and bulk regulations for the zoning district in which it is located.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Warren H. Boyer

Address 2945 Route 97, Glenwood, Maryland 21738

Phone No. (W) 410-442-2100 (H) _____

Email Address ediamond@whboyer.com

3. Counsel for Petitioner William E. Erskine - Offit Kurman, PA

Counsel's Address 8171 Maple Lawn Boulevard, Suite 200, Fulton, Maryland 20759

Counsel's Phone No. 301-575-0363

Email Address werskine@offitkurman.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed Please see the attached Supplement to Petition to Amend the Zoning Regulations of Howard County, Response to Section 4.

2016 FEB 29 PM 1:29

RECEIVED
HOWARD COUNTY COUNCIL

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County Please see the attached Supplement to Petition to Amend the Zoning Regulations of Howard County, Response to Section 5.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A. Please see the attached Supplement to Petition to Amend the Zoning Regulations of Howard County, Response to Section 6.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . Please see the attached Supplement to Petition to Amend the Zoning Regulations of Howard County, Response to Section 7.

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more

than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

Please see the attached Supplement to Petition to Amend the Zoning Regulations of Howard County,
Response to Section 8.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. Storage Containers are commonly used throughout Howard County in the agricultural community. The ability to use these containers is of vital importance to many farmers because they provide the farmers with economical, secure, water and rodent resistant storage. The inability to be able to utilize these structures in a lawful manner will create significant hardship on many Howard County farmers.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

* The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12
T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: WARREN H. BOYER, JR.

AFFIDAVIT AS TO CONTRIBUTION

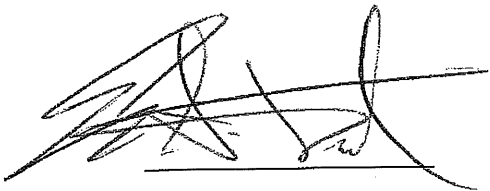
As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, WARREN H. BOYER, JR. the applicant in the above zoning matter
_____, HAVE HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.



Printed Name: WARREN H. BOYER, JR.

Signature: [Handwritten Signature]

Date: 2/27/16

PETITIONER:

WARREN H. BOYER, JR.

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR

PARTY OF RECORD: _____

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: WARREN H. BOYER
 Signature: [Handwritten Signature]
 Date: 2/27/16

PETITIONER: WARREN H. BOYER, JR.

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

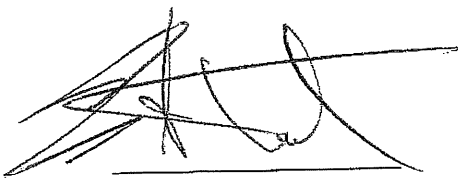
As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, WARREN H. BOYER, the applicant in the above zoning matter
_____, AM AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.



Printed Name: WARREN H. BOYER

Signature: [Handwritten Signature]

Date: 2/27/06

Supplement to Petition to Amend the Zoning Regulations of Howard County

Response to Section 4.

Under existing law, the use of Office Trailers (also known as Construction Trailers) is prohibited except on a temporary basis. However, existing law permits the non-temporary use of Modular Office Buildings in any zoning district in which offices are a permitted use. The Petitioner's recent consultation with mobile office industry representatives has revealed that there is no discernible difference between "Office Trailers", "Construction Trailers" and "Modular Office Buildings." In light of this, it makes logical sense to remove the existing prohibition against the non-temporary use of Office Trailers or Construction Trailers as this distinction is purely arbitrary given that Modular Office Buildings are not subject to the same use restrictions. It also makes logical sense that the Hearing Authority should have the ability to approve the use of Modular Office Buildings as part of an approved Conditional Use Plan.

Likewise, existing law prohibits the non-temporary use of certain Storage and Refuse Containers. Such non-temporary containers are in wide-use throughout the County and can be commonly found at almost any middle school and high school, many farms, as well as many sites owned by the Howard County Government. These Storage Containers exist today in violation of existing law yet they serve a vital function to the HCPSS, farmers and local government because they provide much needed economical, secure and weather resistant storage.

The proposed amendment to Section 128.0.D would permit the non-temporary use of Storage and Refuse Containers provided such containers are screened and not visible from adjoining properties lines and provided the location of the container complies with all structure and use setbacks applicable in the underlying zoning district.

Response to Section 5.

The proposed amendments seek to remove overly broad existing restrictions on the use of property. These existing restrictions, due to their over breadth, do not promote the health, safety and welfare of the community. The proposed amendments will permit the use and re-use of mobile Office Trailers and Storage Containers in harmony with the sustainability goals set forth in PlanHoward 2030 and in particular Policy 12.3 which states: "Increase currently successful, collaborative efforts between residents, businesses, nonprofit groups, and the County to continue implementing state-of-the-art, cost-effective, sustainability practices and techniques."

Response to Section 6.

The proposed amendments will permit the use and re-use of Office Trailers as Modular Office Buildings. These structures will still be required to satisfy the requirements of the Howard County Building Code and therefore the health, safety and welfare of the community will be preserved and promoted. The amendments will also permit the non-temporary use and re-use of Storage and Refuse Containers provided they are screened and not visible from adjoining properties lines and public street right-of-ways. Because these structures will not be permitted in locations or under conditions where they can be seen, the health, safety and welfare of the community will be preserved and promoted.

Response to Section 7.

The public school system utilizes non-temporary Storage Containers widely throughout the County at many middle schools and high schools. These containers appear to serve the vital function of providing economical, secure and weather resistant storage for athletic equipment and ground maintenance supplies. The adoption of the proposed amendments would permit the HCPSS to continue to utilize these storage facilities without being in violation of the zoning ordinance. The school system has used these Storage Containers for many years for this purpose and there has not been any adverse impact on the health, safety and welfare of the community.

Response to Section 8.

The proposed amendments could impact more than 12 properties. However, this impact would not be adverse or negative. The first proposed text amendment adds the word "TEMPORARY" to the final paragraph of Section 128.0.D.1. This term is added in order to clarify that the provisions of this subsection do not apply to the use of a trailer for office or sales purposes on a non-temporary basis. Such non-temporary use of a trailer for office or sales purposes is now proposed to be governed by newly created Section 128.0.D.3 of the regulations. This second proposed amendment would remove the existing County-wide ban on non-temporary Storage and Refuse Containers. Similarly, this second proposed amendment will have no adverse impact on vicinal properties because it only permits such non-temporary Storage and Refuse Containers to be located where they are screened and not visible from adjoining property lines and the public street right-of-way. Additionally, and to the extent that some distinguishing characteristic may exist between these trailers and Modular Office Buildings, the amendment would expressly permit the physical conversion of such trailers into a Modular Office Building provided the converted structure complies with the Building Code.

Petitioner's Proposed Text

SECTION 128.0: - Supplementary Zoning District Regulations

D. Temporary, Seasonal and Other Uses

1. Temporary Storage Trailers and Field or Sales Offices Related to Ongoing Construction

In all zoning districts, on application to the Department of Planning and Zoning, a permit may be issued for the use of storage trailers that are directly related to ongoing construction, or a trailer or building to be used as a temporary field or sales office in connection with development for which construction plans have been signed and all developer's agreements have been executed, a final plat has been recorded, a Site Development Plan has been approved or a building permit has been issued. Neither the trailers nor the building shall be used for living or sleeping, unless for overnight security purposes. A trailer or building approved under this section may not remain on the site unless there are active permits for the project, and the trailer or building must be removed before the last active permit for the project receives its final inspection. A trailer approved under this section and accessory parking may encroach into a required front setback from a street that has not yet been dedicated to the County. The trailer and parking must be removed or relocated to comply with the front setback before the street is dedicated.

The TEMPORARY use of a trailer for office or sales purposes shall be permitted only in accordance with this Section. Modular office buildings, however, are allowed in zoning districts in which offices are a permitted use.

2. Temporary Storage or Refuse Containers

- a. In all zoning districts, a storage or refuse container not directly associated with construction activity for which a permit is required may be used on a temporary basis provided it complies with all applicable setbacks and bulk regulations for the zoning district in which it is located. Such a container may not exceed a maximum size of 8 feet in width by 16 feet in length by 8 feet in height and may not remain on the site for more than 60 days. No more than one storage container and one refuse container may be located on the property at any time.
- b. Upon application, the Director of Planning and Zoning may extend the time permitted for no more than 30 days, upon a showing of need and no history of violations regarding this use.
- c. For purposes of this section, the period of use is calculated from the first day of actual use and includes the time the application is pending and any appeal if the use continues during that time.
- d. No more than one 90 day use of temporary storage or refuse containers may be permitted for a property in any calendar year.
- e. The Director of Planning and Zoning may grant an exception only to the size of containers, but in no event may permit a use beyond the time period specified in this section.

3. NON-TEMPORARY USE OF STORAGE TRAILERS, FIELD OR SALES OFFICES, STORAGE AND REFUSE CONTAINERS.

- A. IN ZONING DISTRICTS IN WHICH OFFICES ARE A PERMITTED USE OR WHERE APPROVED BY THE HEARING AUTHORITY ON A CONDITIONAL USE PLAN, A STORAGE TRAILER, FIELD AND SALES OFFICE MAY BE USED PROVIDED IT IS SCREENED AND NOT VISIBLE FROM ADJOINING PROPERTY LINES OR FROM THE PUBLIC STREET RIGHT-OF-WAY; AND PROVIDED IT COMPLIES WITH ALL

APPLICABLE SETBACKS AND BULK REGULATIONS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED.

- B. IN ALL ZONING DISTRICTS, A STORAGE AND REFUSE CONTAINER MAY BE USED PROVIDED IT IS SCREENED AND NOT VISIBLE FROM ADJOINING PROPERTY LINES OR FROM THE PUBLIC STREET RIGHT-OF-WAY; AND PROVIDED IT COMPLIES WITH ALL APPLICABLE SETBACKS AND BULK REGULATIONS FOR THE ZONING DISTRICT IN WHICH IT IS LOCATED.
- C. THE NON-TEMPORARY USE OF A TRAILER FOR OFFICE OR SALES PURPOSES SHALL BE PERMITTED ONLY IN ACCORDANCE WITH THIS SECTION. MODULAR OFFICE BUILDINGS, HOWEVER, ARE ALLOWED IN ZONING DISTRICTS IN WHICH OFFICES ARE A PERMITTED USE OR WHERE APPROVED BY THE HEARING AUTHORITY ON A CONDITIONAL USE PLAN.
- D. THE PHYSICAL CONVERSION OF A STORAGE TRAILER, FIELD OR SALES OFFICE TRAILER INTO A MODULAR OFFICE BUILDING IS EXPRESSLY PERMITTED PROVIDED, HOWEVER, THAT THE CONVERTED STRUCTURE COMPLIES WITH THE REQUIREMENTS OF THE BUILDING CODE.

Re-number balance of section as appropriate.

Text as it would Appear in Regulations

SECTION 128.0: - Supplementary Zoning District Regulations

D. Temporary, Seasonal and Other Uses

1. Temporary Storage Trailers and Field or Sales Offices Related to Ongoing Construction

In all zoning districts, on application to the Department of Planning and Zoning, a permit may be issued for the use of storage trailers that are directly related to ongoing construction, or a trailer or building to be used as a temporary field or sales office in connection with development for which construction plans have been signed and all developer's agreements have been executed, a final plat has been recorded, a Site Development Plan has been approved or a building permit has been issued. Neither the trailers nor the building shall be used for living or sleeping, unless for overnight security purposes. A trailer or building approved under this section may not remain on the site unless there are active permits for the project, and the trailer or building must be removed before the last active permit for the project receives its final inspection. A trailer approved under this section and accessory parking may encroach into a required front setback from a street that has not yet been dedicated to the County. The trailer and parking must be removed or relocated to comply with the front setback before the street is dedicated.

The temporary use of a trailer for office or sales purposes shall be permitted only in accordance with this Section. Modular office buildings, however, are allowed in zoning districts in which offices are a permitted use.

2. Temporary Storage or Refuse Containers

- a. In all zoning districts, a storage or refuse container not directly associated with construction activity for which a permit is required may be used on a temporary basis provided it complies with all applicable setbacks and bulk regulations for the zoning district in which it is located. Such a container may not exceed a maximum size of 8 feet in width by 16 feet in length by 8 feet in height and may not remain on the site for more than 60 days. No more than one storage container and one refuse container may be located on the property at any time.
- b. Upon application, the Director of Planning and Zoning may extend the time permitted for no more than 30 days, upon a showing of need and no history of violations regarding this use.
- c. For purposes of this section, the period of use is calculated from the first day of actual use and includes the time the application is pending and any appeal if the use continues during that time.
- d. No more than one 90 day use of temporary storage or refuse containers may be permitted for a property in any calendar year.
- e. The Director of Planning and Zoning may grant an exception only to the size of containers, but in no event may permit a use beyond the time period specified in this section.

3. Non-Temporary Use Of Storage Trailers, Field or Sales Offices, Storage and Refuse Containers.

- a. In zoning districts in which offices are a permitted use or where approved by the hearing authority on a conditional use plan, a storage trailer, field and sales office may be used provided it is screened and not visible from adjoining property lines or from the public street right-of-way; and provided it complies with all applicable setbacks and bulk regulations for the zoning district in which it is located.

- b. In all zoning districts, a storage and refuse container may be used provided it is screened and not visible from adjoining property lines or from the public street right-of-way; and provided it complies with all applicable setbacks and bulk regulations for the zoning district in which it is located.
- c. The non-temporary use of a trailer for office or sales purposes shall be permitted only in accordance with this section. Modular office buildings, however, are allowed in zoning districts in which offices are a permitted use or where approved by the hearing authority on a conditional use plan.
- d. The physical conversion of a storage trailer, field or sales office trailer into a modular office building is expressly permitted provided, however, that the converted structure complies with the requirements of the building code.

Re-number balance of section as appropriate.

4823-8209-6686, v. 1