

## MOUNT VERNON AVENUE URBAN OVERLAY ZONE

### Sec. 6-600 Mount Vernon Avenue Urban Overlay Zone

6-601 *Purpose.* The Mount Vernon Avenue Urban Overlay Zone is intended to supplement traditional zoning for certain properties on Mount Vernon Avenue in order to achieve a mixed use, pedestrian oriented community that both supports economic activity and protects existing residential neighborhoods, and to provide for appropriately scaled infill development that is compatible with the character of Mount Vernon Avenue, the existing community and the Town of Potomac Historic District. The provisions of this overlay zone therefore:

- (A) encourage certain uses, especially those ground floor uses that promote an active retail street;
- (B) provide more flexibility for some uses, by allowing administrative approvals subject to standards instead of a special use permit;
- (C) promote signage that creates a more attractive streetscape in keeping with the character of the street;
- (D) encourage the retention of contributing structures within the Town of Potomac Historic District; and,
- (E) encourage compatible development of infill and vacant sites by allowing the use of form based development in lieu of the traditional CL zoning approach, subject to standards and the principles of the Mount Vernon Avenue Business Area Plan.

### 6-602 *Application of overlay zone.*

- (A) *Overlay zone.* The Mount Vernon Avenue Urban Overlay Zone shall apply to all property with frontage on Mount Vernon Avenue between Nelson Avenue on the south and Commonwealth Avenue on the north, and shown in more detail on the “Mount Vernon Urban Overlay Zone Map, dated \_\_\_\_\_(date of adoption).”
- (B) *Retail Focus Area.* Within the Mount Vernon Avenue Urban Overlay Zone, a portion of the area is designated as a Retail Focus Area, and is the subject of specific additional regulations. The Retail Focus Area is generally consistent with the Town of Potomac Historic District boundaries on Mount Vernon Avenue, and extends from Bellefonte Avenue on the south to Uhler Avenue on the north. The Retail Focus Area is shown in more detail on the map titled, “Mount Vernon Avenue Urban Overlay Zone Map, dated \_\_\_\_\_(date of adoption).”
- (C) The overlay zone requirements including the retail focus area provisions, parking provisions, sign provisions, form based development provisions, and

administrative uses shall apply in addition to the requirements of the underlying CL zone. In the case of a conflict, the overlay zone shall prevail.

6-603 *Uses.*

- (A) *Permitted and Special Use Restrictions* The following uses, otherwise allowed either as permitted or special uses in the CL zone, are not permitted in the overlay zone area:
- (1) Seminary, convent or monastery;
  - (2) Medical laboratory;
  - (3) Public school;
  - (4) Funeral home;
  - (5) Rooming house;
  - (6) Check cashing business;
  - (7) Payday loan business;
  - (8) Pawnshop;
  - (9) Motor vehicle parking or storage, except that a public parking lot is allowed with a special use permit.
- (B) *Special Use Additions.* The following uses are allowed by special use permit, in addition to those listed in the CL zone:
- (1) amusement enterprise, limited to live theater, music venues and similar entertainment opportunities.
- (C) *Retail Focus Uses.* Within the retail focus area, uses occupying first floor space of a building shall be limited to the following:
- (1) Retail shopping establishment
  - (2) Restaurant
  - (3) Amusement enterprise, as limited in Section (B)(1) above.
  - (4) Personal service establishment, provided that the use shall occupy no more than 30 feet frontage on Mount Vernon Avenue, and provided further that additional frontage space may be permitted with a special use permit.
  - (5) Arts and crafts studios, which are facilities where arts and crafts products are created on site. If at least 50% of the frontage of the space on Mount Vernon Avenue is devoted to retail display and sales, then the use is not considered a personal service establishment.
  - (6) Office or residential uses, in an existing building with a first floor located at least 40 inches above the grade of the sidewalk.

- (D) *Administrative Uses.* Notwithstanding any contrary provisions of the zoning ordinance, the following uses may be allowed by the Director by administrative review and approval pursuant to the standards and procedures of Section 6-608 of this ordinance; provided however that the Director may determine that a special use permit approval shall be required if the applicant fails to consent to the conditions of the administrative permit or if after consultation with the Police Department it is determined that there are documented criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator. Alternatively, at the applicant's discretion, the applicant may seek special use permit approval for such uses pursuant to Section 11-500 of this ordinance.
- (1) Restaurants, up to a maximum of 60 seats
  - (2) Outdoor dining, up to a maximum of 16 seats
  - (3) Amusement enterprise, limited to live theater
  - (4) Outdoor food and crafts markets
  - (5) Neighborhood outdoor garden center, limited to a maximum size of 10,000 square feet
  - (6) Outdoor display of retail goods
- (E) *Accessory Apartments.* The regulation for accessory apartments in Section 4-108 is modified to allow residential uses on the upper floors of a building to apply to up to eight apartments.
- (F) *Noncomplying Uses.* Notwithstanding the language of 12-301 regarding the definition of noncomplying uses, any use within the urban overlay zone that is legally existing on \_\_\_\_\_ (date of ordinance adoption) and inconsistent with these provisions shall be deemed a noncomplying use and allowed to continue subject to the rules for noncomplying uses in Section 12-302 of this ordinance.

6-604 *Parking Requirements.* The provisions of Article VIII of this ordinance shall apply within the overlay zone the following additions and modifications:

- (A) The requirements of Sections 8-200(F) (1) and (2) regarding provision of parking as a result of a change of use, a significant enlargement or a significant alternation shall not apply if the use after the change, enlargement or alteration is a retail establishment.
- (B) Outdoor dining requires no parking for the first 16 seats.
- (C) Outdoor food and crafts markets shall have no parking requirement, and may, like other permitted temporary uses approved by the Director, occupy areas

with required parking spaces for their limited duration.

- (D) For form based development pursuant to Section 6-606, parking additions or modifications are provided in that Section.

6-605 *Signs.* The provisions of Article IX of this ordinance shall apply within the overlay zone the following additions and modifications:

- (A) *Sign Designs Compatible with Mount Vernon Avenue.* The following sign types are permitted:

- (1) *Sign type.* All signs shall be wall-mounted, projecting signs, glass applied or located on the valance of an awning;

- (2) *Sign Location.* All signs shall be located below second floor windows;

- (3) *Awnings.* Awnings shall be designed to coordinate with the design of the building. Awnings shall not be internally illuminated. Light fixtures mounted to the building wall to illuminate the building or sidewalk are permitted.

- (B) *Prohibited Signs on Mount Vernon Avenue.* The following specific sign types are prohibited:

- (1) Freestanding signs, exceeding six square feet in size and six feet in height. Except that such freestanding signs existing on \_\_\_\_\_ (date of adoption) may be replaced on a one-time basis with a monument sign not to exceed eight feet in height. Any such replacement signs, shall be deemed a noncomplying structure, subject to Section 12-100, and shall not be subject to the conditions of Section 6-605 (C).

- (2) Signs with internal illumination.

- (3) Box signs hung perpendicular to a building wall.

- (C) *Noncomplying Status.* Any signs existing on \_\_\_\_\_ (date of adoption) that are inconsistent with the requirements of Sections 6-605 (A) and (B) shall be subject to the following restrictions: such signs may not be physically expanded, enlarged or intensified; such signs must be removed if the use existing on \_\_\_\_\_ (date of adoption) to which it is accessory ceases operation, or if the use of the sign is abandoned for a period of 12 months. No change of sign face or message shall be permitted for a sign deemed noncomplying under this Section.

6-606 *Form Based Development.* The following system for new development within the overlay zone has been designed to supplement and substitute for the conventional zoning rules found in the CL zone in order to assure that new buildings and additions to existing buildings include the most desirable characteristics of Mount Vernon Avenue and are compatible with existing buildings in the area. Form based development provides an option for developers and property owners who choose to build pursuant to the following standards instead of the rules for development under the CL zone.

- (A) *Waiver of CL zone rules.* The area and bulk requirements of the CL zone shall not apply for development for which a form based development SUP is approved.
- (B) *Eligible construction.* Any new construction or addition to an existing building that exceeds 1,000 square feet may apply for a form based development special use permit.
- (C) *SUP Procedure.* An application for form based development SUP shall follow the procedures and application requirements for special use permits pursuant to Section 11-500.
- (D) *Eligible land parcels.* The land that is the subject of an application for form based development SUP shall be a lot within the overlay zone that has frontage on Mount Vernon Avenue and that conforms to the following:
  - (1) *Historic Buildings.* Each building listed as a contributing building in the records of the National Register of Historic Places for the Town of Potomac Historic District and over 750 square feet in size shall be retained.
  - (2) *Consolidation of lots.*
    - (a) Consolidation of lots for the purpose of development is permitted only in extraordinary circumstances because the form based development standards are based on the size of typical, existing lots and reflect the historic development pattern.
    - (b) An applicant for form based development who proposes the consolidation of lots for development shall demonstrate by clear and convincing justification that the resulting development achieves a design, mass, scale and configuration which are more consistent with the form based development

standards than would be possible without consolidation.

- (c) An applicant for form based development who proposes to consolidate a CL-zoned lot without frontage with a lot with frontage on Mount Vernon Avenue shall demonstrate by clear and convincing justification that the resulting development achieves a design consistent with and meets the goals of the form based development standards to a greater extent than would occur without consolidation and that the impact on adjoining residential development is no greater than would occur without consolidation.

(E) *Standards and requirements for form based development.* An application for form based development SUP shall be reviewed for consistency and compliance with the following:

- (1) The standards for SUP approval in Section 11-500.
- (2) Chapter 6 of the Mount Vernon Avenue Business Plan, as adopted as part of the Potomac West Small Area Plan, which includes the City's goals for the urban design and streetscape elements for buildings on Mount Vernon Avenue, and enumerates both general and specific elements for applicants to follow related to, without limitation, building height, setbacks, coverage, buffering, access and parking locations, facade treatment and articulation, scale and massing, and architecture.
- (3) The following specific rules regarding open space and parking based on the size and scope of development:
  - (a) *Tier 1: lots of 7,000 square feet or less.*
    - (1) *Open Space.* The undeveloped land resulting from the building coverage in Chapter 6 of the Mt. Vernon Avenue Business Area Plan should be located, designed and planted so as to serve as an amenity for residents and users of the building.
    - (2) *Parking.* The parking requirements of Section 8-200 (a) shall not apply for land locked interior lots and may be reduced for corner lots and lots with rear access as part of the form based development SUP review process.

(b) *Tier 2: lots of 7,001-15,000 square feet.*

- (1) *Open Space.* A minimum of 15% of the lot area shall be provided in open and usable ground level open space. The provision of additional open space at ground level and in the form of roof tops, terraces or similar non-ground level open space is strongly encouraged.
- (2) *Parking.* For residential uses, a minimum of one space for each dwelling unit is required. For any other use, a minimum of 50 % of the number of parking spaces otherwise required under Section 8-200 of this ordinance shall be provided, plus such additional number as is feasible consistent with achieving the goals of Chapter 6 of the Mount Vernon Avenue Business Area Plan.

(c) *Tier 3: lots of greater than 15,000 square feet:*

- (1) *Open space.* A minimum of 25% of the lot area shall be provided in open and useable ground level open space that is publicly visible and consolidated in a size and location appropriate for the size and type of project being proposed. The provision of additional open space at ground level and in the form of roof tops, terraces or similar non-ground level open space is strongly encouraged and may be required.
- (2) *Parking.* The parking requirements of Section 8-200 are not waived. Parking sufficient to meet the full requirement of the project shall be provided.
- (3) *Additional requirements.* Tier 3 projects are expected to represent the highest standards of building design and materials, site layout and orientation, provision of open space, and the ability to be integrated into the scale, character and context of the existing neighborhood. To achieve this standard, additional requirements suitable for the size, scope and type of project may be imposed consistent with Chapter 6 of the Mount Vernon Avenue Business Area Plan.

- (F) *Degree of compliance.* An application for form based development shall meet or exceed each of the above standards and guidelines fully, specifically and rigorously. Any failure to meet the above standards will result in the denial of an application unless a deviation is approved as provided herein. Deviation from any of the standards of Section 6-606 (E) shall be explained in narrative as well as graphic form and supported by design and rationale demonstrating that the proposal achieves the goals of the Mount Vernon Avenue Business Area Plan to the same extent as strict compliance with the standard and/or guideline from which deviation is requested. Each such deviation shall be specifically approved by City Council as part of the form based development SUP. Any request for a deviation shall be clearly identified in the notice provision under Section 11-300.

6-607 *Standards and Procedures for Administrative Approvals.*

(A) *Application of this Section generally.*

- (1) An applicant may seek administrative approval of a use listed in Section 6-603(D) pursuant to the standards and procedures outlined in this Section.
- (2) At the applicant's discretion, the applicant may choose, as an alternative to an administrative permit, to seek special use permit approval for such uses pursuant to Section 11-500 of the zoning ordinance.
- (3) Any change in the nature of the use or any enlargement, extension or increase in the intensity of that use beyond that outlined in the standards of this Section shall be subject to review by the Director and shall require a special use permit approved by the city council;
- (4) In the event any person, whether owner, lessee, principal, agent, employee or otherwise, materially fails to comply with any standard of this Section, the Director may suspend or revoke the administrative approval in whole or in part and on such terms and conditions as deemed necessary to effect the cure of such failure. The applicant or his successor in interest may appeal this suspension or revocation pursuant to Section 11-205(B) et. seq. of this ordinance, except that such appeal shall be heard by the Planning Commission.



(B) *Procedure.*

- (1) Applicants for administrative permits under this Section shall file an application with the Director on such forms and subject to such procedures as the Director may establish for the purpose. The application shall include a statement identifying the applicant as required by Section 11-503 of this ordinance.
- (2) Notice of a pending administrative permit application shall be made in a newspaper of general circulation in the city, posted on the subject property, and given to nearby civic and business associations. The public may submit comments to the Director within 14 days after publication of the notice.
- (3) After review for compliance with the standards of this Section 6-607, the Director may approve, approve with conditions, or deny the application. The decision of the Director shall be deemed to have the force and effect of a special use permit, under Section 11-500, except that provisions of 11-507 shall not apply. The Director's decision may be appealed to the Planning Commission. Such appeal shall be filed within 30 days from the date of the decision appealed by filing a notice of appeal with the Department of Planning and Zoning. Such notice shall be a written statement specifying the grounds on which the person is aggrieved and the basis for the appeal.

(C) *Standards for Administrative Permits.*

(1) *General standards for all administrative uses:*

- (a) The application shall be reviewed for compliance with this Section 6-607 as well as with applicable provisions of Section 11-500.
- (b) The Director may determine that administrative approval is not appropriate and that special use permit approval shall be required if the applicant fails to consent to the conditions of the administrative permit or if after consultation with the Police Department it is determined that there are criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator.
- (c) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a

controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the Director pursuant to the requirements of Section 11-503(F) of this ordinance.

- (d) The applicant shall provide information on alternative forms of transportation to access Mt. Vernon Avenue including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.
- (e) At such time that a shared parking program has been adopted by the City Council, the applicant shall participate in the program. In addition, the applicant shall require its employees who drive to work to use off-street parking.
- (f) The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking.
- (g) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers. Outdoor trash receptacles shall be screened to the satisfaction of the Director of Planning and Zoning.
- (h) The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.
- (i) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.

- (j) No outdoor speakers shall be permitted.
- (k) The administrative permit approved by the Director pursuant to this Section 6-607 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.
- (l) Improvements may be required to the facade or the front of the business establishment, including landscaping and site improvements, consistent with Chapter 6 of the Mount Vernon Avenue Business Area Plan as adopted as part of the Master Plan, and as determined by the Director to be necessary and appropriate to achieve the design and streetscape objectives of that Plan.
- (m) The Director may require conditions additional to those listed in the standards of this Section if the Director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.

(2) *Specific Standards for Live Theater*

- (a) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law.
- (b) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of one event each month is permitted.
- (c) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily.
- (d) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements,

and on how to prevent underage sales of alcohol.

- (3) *Specific Standards for Outdoor Food and Crafts Markets*
- (a) No alcohol sales shall be permitted;
  - (b) No on-site storage of trailers is permitted;
  - (c) No on-site food preparation shall be permitted;
  - (d) The hours of operation shall be limited to 7:00 a.m. to sundown and the market shall be open on those days specified in the approved permit, not to exceed a maximum of two days a week.
  - (e) Market operations shall include:
    - (1) The applicant shall designate one person to serve as the Market Master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the Director prior to the opening of the market;
    - (2) The Market Master or his/her designee shall be present prior to the opening of the market and at the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;
    - (3) The Market Master shall prepare a plan for the layout of the market for approval by the Director prior to beginning operations, and shall obtain approval of the Director for any changes to those plans.
    - (4) The Market Master shall prepare a set of rules for operation of the market for approval by the Director who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;

- (5) The rules shall state who is eligible to sell goods in the Market and under what conditions. It is expected that the market shall include the sale of produce, and baked and prepared goods, and that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate;
- (6) The Market Master shall maintain a list of vendors with addresses and telephone numbers.

(4) *Specific Standards for Restaurants*

- (a) The hours of operation shall be limited to 7:00 a.m to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The closing hour for indoor seating may extend until 12:00 midnight four times a year for special events.
- (b) The applicant shall post the hours of operation at the entrance to the restaurant.
- (c) Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour.
- (d) Restaurant seating shall be limited to 60 seats.
- (e) Limited, non-amplified live entertainment may be offered at the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment.
- (f) Full service restaurants with a minimum of 40 seats may offer delivery service which shall be limited to one delivery vehicle, with a dedicated off-street parking space, and shall not be parked on the public right-of-way.
- (g) Beer and wine table service may be provided. No off-

premise alcohol sales are permitted.

- (h) No food, beverages, or other material shall be stored outside.
- (i) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (j) The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- (k) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol.

(5) *Specific Standards for Outdoor Dining*

- (a) No more than sixteen seats may be located at outdoor tables in front of the restaurant. Outdoor seating shall not encroach onto the public right-of-way unless authorized by an encroachment ordinance. \_\_\_\_\_
- (b) The outdoor dining shall be an accessory use to an approved restaurant.
- (c) The hours of operation of the outdoor dining area shall be limited to 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.

(6) *Specific Standards for Neighborhood Outdoor Garden Center*

- (a) The site for the outdoor garden center may be no larger than 10,000 square feet.
- (b) The hours of operation shall be limited to between 7:00

a.m. and 9:00 p.m. Monday through Saturday, and from 8:00 a.m to 8:00 p.m on Sunday.

- (c) A plan showing the layout of the garden center, including areas for storage, on site deliveries, and vehicles; appropriate screening; the design of any building or structure; and the view from Mount Vernon Avenue and neighboring properties shall be submitted for review and approval by the Director.
  - (d) Deliveries shall be limited to during normal business hours and shall occur in the location shown in the approved plan.
- (7) *Specific Standards for Outdoor Display.* Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:
- (a) The requirements of Section 4-107(A) shall apply.
  - (b) Only goods from the adjacent store are permitted to be displayed.
  - (c) Signage for the outdoor display is allowed in addition to signage otherwise permitted for the business, but shall be limited to a maximum aggregate size of one square foot.
  - (d) No sales may occur in the outdoor display area.
  - (e) The outdoor display area may include no structures or other permanent changes to the exterior.
  - (f) There shall be no music, speakers, or amplified sounds associated with the outdoor display.
  - (g) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.
  - (h) The outdoor sales may not encroach into the public right of way.

New Definitions to be part of Text Amendment:

Section 2-198.1                    *Theater, Live:* An establishment that has an audience viewing hall or room and a permanent stage for the presentation of live performances by live actors to a live audience in a theater setting. Theaters may include but are not limited to live performances of music, dance, plays and orations.

Section 2 - 127.1                    *Check cashing business:* A business regulated by Section 6.1- 432 et seq. of the Virginia Code.

Section 2 - 182.1                    *Payday loan business:* A business regulated by Section 6.1 - 444 et seq. of the Virginia Code.