

Pertaining to the Amendments of the Calvert County Zoning Ordinance  
(Calvert County Zoning Ordinance Article 5, Residential Development Requirements,  
Section 5-5.01 Age-Restricted Housing Communities and Article 12 Definitions)

**RE: AGE-RESTRICTED HOUSING COMMUNITIES**

(Text Amendment Case No.13-02)

**WHEREAS**, Title 4 of the *Land Use Article* of the Maryland Annotated Code, as amended, empowers the Board of County Commissioners of Calvert County, Maryland to enact a Zoning Ordinance to promote the health, safety and welfare of the citizens of Calvert County, and to provide for its administration, enforcement and amendment; and

**WHEREAS**, by Ordinance 35-06, the Board of County Commissioners of Calvert County, Maryland has heretofore adopted the Calvert County Zoning Ordinance; and

**WHEREAS**, after study and evaluation, the Calvert County Department of Community Planning & Building recommended to the Planning Commission and the Board of County Commissioners text amendments to the Calvert County Zoning Ordinance to Article 5, Residential Development Requirements, Section 5-5.01 Age-Restricted Housing Communities and Article 12 Definitions;

**WHEREAS**, after due notice was published, the Board of County Commissioners and the Planning Commission of Calvert County, Maryland (hereinafter, the "Planning Commission") conducted a joint public hearing on June 25, 2013, at which time the proposed amendments were discussed, staff's recommendations were considered, and public comment was solicited;

**WHEREAS**, at the conclusion of said public hearing the Planning Commission voted to approve the amendments and conveyed its recommendation to the Board of County Commissioners by resolution; and

**WHEREAS**, after considering the evidence which had been presented at the public hearing regarding the proposed text amendments and the recommendation of the Planning Commission, and in furtherance of the public health, safety and welfare, the Board of County Commissioners of Calvert County, Maryland determined it is in the best interest of the citizens of the County to enact the text amendments to the Calvert County Zoning Ordinance as set forth in Exhibit A, attached hereto and made a part hereof.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Calvert County, Maryland, Article 5, Residential Development Requirements, Section 5-5.01 Age-Restricted Housing Communities and Article 12 Definitions of the Calvert County Zoning Ordinance **BE**, and hereby **IS**, amended by adopting the text amendments as shown in attached Exhibit A hereto and made a part hereof (Exhibit B depicts the amendments as they will actually appear in the Zoning Ordinance).

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance or the Calvert County Zoning Ordinance, are found to be unconstitutional, illegal, null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid.

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

**BE IT FURTHER ORDAINED** by the Board of County Commissioners of Calvert County, Maryland that this amendatory Ordinance shall be effective upon recordation.

DONE, this 25<sup>th</sup> day of June 2013 by the Board of County Commissioners of Calvert

County, Maryland.

Aye: 5  
Nay: 0  
Absent/Abstain: 0

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF CALVERT COUNTY, MARYLAND

Maureen L. Frederick  
Maureen L. Frederick, Clerk

Pat Nutter  
Pat Nutter, President

Approved for legal  
sufficiency on June 27, 2013

Steven R. Weems  
Steven R. Weems, Vice-President

by:

Gerald W. Clark  
Gerald W. Clark

John B. Norris, III  
John B. Norris, III, County Attorney  
*Note effective before July 5, 2013*

Susan Shaw  
Susan Shaw

Evan K. Slaughenhoupt Jr.  
Evan K. Slaughenhoupt Jr.

Received for Record 7/12 2013  
at 2:15 o'clock P. M. Same day  
recorded in Liber KPS No. 42  
Folio 499 COUNTY COMMISSIONERS  
ORDINANCES AND RESOLUTION.

Garry P. Smith

**5-5 AGE-RESTRICTED HOUSING COMMUNITIES****5-5.01 General Requirements for Age-Restricted Housing Communities**

- A. Single-family Age-Restricted Housing Communities shall comply with the requirements for standard subdivisions with regard to lot density, lot size, setbacks, etc. contained in this Article and Article 7, Subdivision Regulations.
- B. Townhouse, Single-family Attached, Multi-family, and Mixed Residential Age-Restricted Housing Communities shall comply with Section 5-3.
- C. The following additional requirements shall apply to Age-Restricted Housing Communities:
  - 1. The development shall include at least 20 residential units.
  - 2. All units shall be either handicapped accessible or handicapped adaptable.
  - 3. Covenants shall be placed on the property that specify the age-restricted nature of the proposed community. Such covenants shall require the prior approval of the Board of County Commissioners and the Planning Commission and shall be in accordance with the ~~f~~Federal Fair Housing Act, 42 U. S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., and this Zoning Ordinance, as amended from time to time. The covenants shall provide:
    - a. That ~~all~~ **at least 80%** of the dwelling units are to be occupied by at least one Age-Qualified Resident, with the marketing of all the dwelling units being directed towards Age-Qualified Residents;
    - b. ~~That up to two dwelling units may, at the discretion of the Age-Restricted Housing Community Association, be occupied by persons none of whom is an Age-Qualified Resident if at least one of the persons intended to occupy the dwelling unit is a Special Resident~~
    - e**b. That persons, at least 19 but under 55 years of age, may reside in a dwelling unit provided the person resided ~~s~~ with the Age-Qualified Resident **or occupies one of the 20% of dwelling units not required to be occupied by an Age Qualified Resident. or Special Resident in the dwelling unit prior to the death of the Age-Qualified Resident or Special Resident or prior to the placement of the Age-Qualified Resident or Special Resident in a facility for the care of the elderly or the disabled;**
    - e**c. That a person under 19 years of age may visit a dwelling unit as the guest of the occupants of a dwelling unit, provided that no person under the age of 19 may stay overnight in a dwelling unit for more than two consecutive weeks or for a total of more than 30 days in any 12-month period;
    - e**d. That except as otherwise required by the ~~f~~Federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., no persons under 19 years of age may reside in any unit, **except that a person under 19 years of age may reside in a unit occupied by a Special Resident;**

- f.e.** That any provision of the covenants pertaining to the age-restricted nature of the community may not be amended without the approval of the Board of County Commissioners;
- g.f.** That none of the units may be converted to general housing unless: (a) conversion is approved by all unit owners, the Board of County Commissioners and the Planning Commission, (b) all of the units are converted, (c) all requirements of Section 7-1.05, Adequate Public Facilities, are met at the time of conversion, and (d) the building excise tax in effect at the time of conversion for the type of dwelling into which the units are converted shall be paid, less the amount of excise tax originally paid.

### Article 12: Definitions

<u>Term</u> (Date of Amendment)	<u>Definition</u>
Age-Qualified Resident (4/16/12)	An occupant of a dwelling unit in an Age-Restricted Housing Community who is fifty five (55) years of age or older.
Age-Restricted Housing Community	A residential subdivision, townhouse, or multi-family development consisting of 20 or more residential units intended and operated for occupancy by at least one person fifty-five (55) years of age or older per dwelling unit <b><u>in at least 80% of the total dwelling units.</u></b>
<b>Special Resident</b>	<del>An occupant of a dwelling unit in an Age Restricted Housing Community who provides significant services to the Association such as a serving as the resident manager.</del>

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- B. Townhouse, Single-family Attached, Multi-family, and Mixed Residential Age-Restricted Housing Communities shall comply with Section 5-3.
- C. The following additional requirements shall apply to Age-Restricted Housing Communities:
  - 1. The development shall include at least 20 residential units.
  - 2. All units shall be either handicapped accessible or handicapped adaptable.
  - 3. Covenants shall be placed on the property that specify the age-restricted nature of the proposed community. Such covenants shall require the prior approval of the Board of County Commissioners and the Planning Commission and shall be in accordance with the Federal Fair Housing Act, 42 U. S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., and this Zoning Ordinance, as amended from time to time. The covenants shall provide:
    - a. That at least 80% of the dwelling units are to be occupied by at least one Age-Qualified Resident;
    - b. That persons, at least 19 but under 55 years of age, may reside in a dwelling unit provided the person resides with the Age-Qualified Resident or occupies one of the 20% of dwelling units not required to be occupied by an Age Qualified Resident.
    - c. That a person under 19 years of age may visit a dwelling unit as the guest of the occupants of a dwelling unit, provided that no person under the age of 19 may stay overnight in a dwelling unit for more than two consecutive weeks or for a total of more than 30 days in any 12-month period;
    - d. That except as otherwise required by the Federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., no persons under 19 years of age may reside in any unit;
    - e. That any provision of the covenants pertaining to the age-restricted nature of the community may not be amended without the approval of the Board of County Commissioners;
    - f. That none of the units may be converted to general housing unless: (a) conversion is approved by all unit owners, the Board of County Commissioners and the Planning Commission, (b) all of the units are converted, (c) all requirements of Section 7-1.05, Adequate Public Facilities, are met at the time of conversion, and (d) the building excise tax in effect at the time of conversion for the type of dwelling into which the units are converted shall be paid, less the amount of excise tax originally paid.

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