

Introduction

MEMORANDUM

November 13, 2009

TO: County Council

FROM: Jeffrey L. Zyontz  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 09-11, Residential Zones- Agricultural Vending

Zoning Text Amendment (ZTA) 09-11, sponsored by Councilmember Berliner, is scheduled to be introduced on November 17, 2009. This ZTA would allow what most resident would call “farmers’ markets” on larger parcels of land (more than 4 acres) adjacent to major roads (4 or more lanes), if the lot is in use for a non-residential purpose. Only a Certified Agricultural Producer would be allowed to sell products.

County regulations define a Certified Agricultural Producer as a vendor of produce from Maryland, Virginia, West Virginia, Delaware, Pennsylvania, or Washington, DC who complies with the following requirements:

- (a) A Certified Agricultural Producer must sell only fresh fruits, vegetables, herbs, cut flowers, small trees, or plants produced by the Agricultural Producer.
- (b) A Certified Agricultural Producer may sell non-potentially hazardous prepackaged goods and eggs. These products must be approved by the Montgomery County Health Department.
- (c) A point of sale license must be obtained before operating.
- (d) Regionally grown products must be sold only by the agricultural producer or a representative of the agricultural producer.
- (e) A Certified Agricultural Producer must be responsible for the conduct of anyone operating under a Point of Sale License issued by the Department of Permitting Services.

Although residents may call such markets farmers’ markets, the Zoning Ordinance includes a very restrictive definition of farm market:

**Farm market:** The display and retail sale from a farm of: (1) agricultural products produced on the farm where the farm market is located, or (2) agricultural products produced on another farm under the control of the owner or operator of that farm market...

A public hearing will be held on January 12, 2010 at 1:30 p.m. if the Council approves the attached resolution.

This packet contains

ZTA 09-11

Resolution

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Zoning Text Amendment No: 09-11  
Concerning: Residential zones –  
Agricultural vending  
Draft No. & Date: 1 – 11/10/09  
Introduced: 11/17/09  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Berliner

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- Allow the sale of farm produce by Certified Agricultural Producers in residential zones, under certain circumstances.

By amending the following sections of the Montgomery County Zoning Ordinance,  
Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1      “RESIDENTIAL ZONES, ONE-FAMILY”  
Section 59-C-1.31    “Land uses”

**EXPLANATION:** *Boldface indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-C-1 is amended as follows:**

2   **DIVISION 59-C-1.       RESIDENTIAL ZONES, ONE-FAMILY.**

3   \*   \*   \*

4   **59-C-1.31. Land uses.**

5   \*   \*   \*

<b>(g) Miscellaneous.</b>	<b>RE-2</b>	<b>RE-2C</b>	<b>RE-1</b>	<b>R-200</b>	<b>R-150</b>	<b>R-90</b>	<b>R-60</b>	<b>R-40</b>	<b>R-4 plex</b>	<b>RMH 200</b>
Accessory buildings or structures for housing animals or fowl.	P	P	P	P	P	P	P			
Accessory buildings, structures, and uses. <sup>52</sup>	P	P	P	P	P	P	P	P	P	P
<u>Agricultural vending*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			
Kennels, noncommercial. <sup>31</sup>	P	P	P	P	P <sup>30</sup>					
Security pavilion	P <sup>50</sup>		P <sup>50</sup>	P <sup>50</sup>						
Signs, in accordance with article 59-F.	P	P	P	P	P	P	P	P	P	P

6   \*       At least 100 feet from a dwelling, a vendor who is a Certified Agricultural Producer under Chapter 47  
7       regulations is permitted to sell produce on a lot or parcel:  
8       1) used for non-residential purposes other than agricultural vending;  
9       2) larger than 4 acres in size;  
10      3) abutting a roadway with 4 or more lanes, and  
11      4) the structure or vehicle used for sales remains in the same location for less than 24 hours.

12   \*   \*   \*

13           **Sec. 5.       Effective Date.** This ordinance takes effect immediately upon  
14 the date of Council adoption.

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16 This is a correct copy of Council action.

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19 Linda M. Lauer, Clerk of the Council

Resolution No.: \_\_\_\_\_  
Introduced: November 17, 2009  
Adopted: \_\_\_\_\_

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION  
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT  
WITHIN MONTGOMERY COUNTY, MARYLAND

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By: District Council

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Subject: Notice of Public Hearing on Zoning Text Amendment 09-11

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within 30 days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 09-11, introduced on November 17, 2009 would allow the sale of farm produce in residential zones under certain circumstances.
3. Councilmember Berliner requested consideration of the Zoning Text Amendment.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

Legal notice will be given of the public hearing to be held on January 12, 2010 at 1:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council