

Ordinance No.: 18-05
Zoning Text Amendment No.: 15-08
Concerning: Charitable Institutions -
Residential Support
Draft No. & Date: 2 – 7/20/15
Introduced: May 21, 2015
Public Hearing: July 14, 2015
Adopted: July 28, 2015
Effective: August 17, 2015

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

Lead Sponsor: Council President Leventhal
Co-Sponsors: Council Vice President Floreen and Councilmembers Katz, Rice, Riemer,
Navarro, Berliner, Elrich, and Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

Allow charitable residential support facilities under certain circumstances

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

DIVISION 59.3. “Uses and Use Standards”
Section 59.3.1.6. “Use Table”
Section 59.3.4.2. “Charitable, Philanthropic Institution”
[[And adding
Section 59.3.4.2.F. “Residential Support Facility”]]

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 text that 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.*

OPINION

On May 21, 2015, the Council introduced ZTA 15-08. The ZTA would allow, under certain circumstances, a charitable institution to provide shelter for people who are supporting a family member at a medical institution in an existing detached house or townhouse.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved with amendments. The Board recommended excluding the townhouse building type from use as a residential support facility and noted that up to 10 persons may reside in the house at one time (8 guests and 2 resident staff persons). The Board made this recommendation despite the fact that a GIS analysis found no existing townhouse building types that fit the locational criteria for permitting the use. The Planning Board also recommended an on-site parking requirement of one space for every 4 guest beds. As introduced in ZTA 15-08, guests may park on the premises of the institution where treatment occurs, but may not park overnight on the site or on residential streets in the surrounding neighborhood.

The Council held a public hearing on July 14, 2015. All of the testimony received expressed support for the ZTA. The Council referred ZTA 15-08 to the Planning, Housing, and Economic Development Committee for its recommendation.

On July 20, 2015, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 15-08 with the following revisions:

- Remove the requirement for a residential support institution to be on a major highway (Subsection 3.4.2.B.1.e);
- Remove the requirement to be near a federal facility or hospital (Subsection 3.4.2.B.1.j);
- Add a requirement for on-site parking – .25 spaces for each guest, as proposed by the Planning Board;
- Editorial changes recommended by the Planning Board, except for the addition of the phrase “or family” after the word “household”.

In the opinion of the Committee, the ZTA as introduced was overly restrictive to a very positive charitable facility. The Committee noted the extremely limited number of charities that may be willing to take on the burden of uncompensated residential support.

The District Council reviewed Zoning Text Amendment No. 15-08 at a worksession held on July 28, 2015 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 15-08 will be approved as amended.

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:

Sec. 1. DIVISION 59.3 is amended as follows:

DIVISION 59.3. Uses and Use Standards

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Residential														
		Residential Detached								Residential Townhouse			Residential Multi-Unit			
		RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10		
* * *																
CIVIC AND INSTUTIONAL																
* * *																
CHARITABLE, PHILANTHROPIC INSTITUTION	3.4.2	C	C	C	C	L/C	L/C									
* * *																

Section 3.4.2. Charitable, Philanthropic Institution

A. Defined

1. Charitable, Philanthropic Institution means a private, tax-exempt organization whose primary function is to provide:
 - a. services, research, or educational activities in areas such as health[,] and social [[service,]] services;
 - b. housing and support services for [[caregivers]] persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital[[]];
 - c. recreation[[]]; or
 - d. environmental conservation.

20 * * *

21 **B. Use Standards**

22 1. Where a Charitable, Philanthropic Institution is allowed as a limited
23 use, [[in the R-60 and R-90 zones,]] it must satisfy the following
24 standards:

25 a. [[A]] The Charitable, Philanthropic Institution must [[reuse a
26 dwelling to]] be primarily [[provide]] for the provision of
27 support and hospitality services for [[multiple guests]] persons
28 who are present as a result of treatment or care being provided
29 to a member of their household by a federal treatment facility or
30 a Hospital.

31 b. Services may be provided daily, during any hours, to persons
32 [[or households]] who are not permanent residents of the
33 premises but are present as a result of treatment or care being
34 provided to a member of their household by a federal treatment
35 facility or a [[hospital]] Hospital.

36 c. The support and hospitality services are provided without
37 payment [[by a tax-exempt organization]].

38 d. [[Residential support facilities]] The Charitable, Philanthropic
39 Institution must use an existing detached house [[or townhouse
40 building type]] and must retain the appearance of a detached
41 house [[or townhouse building type, as applicable]].

42 [[e. The property fronts on and has direct access to a public road
43 classified as a major highway with a master-planned right-of-
44 way of 120 feet or greater.]]

- 72 **[3]** c. In the AR, R, RC, and RNC:
- 73 **[a]** i. A Charitable, Philanthropic Institution must re-use an
74 existing building. The Hearing Examiner may waive this
75 restriction to approve a residential camp for seriously ill
76 children and their immediate family members, operated
77 or sponsored by a non-profit organization under the
78 following conditions. Immediate family members may
79 attend sessions jointly with or separate from the sessions
80 attended by the children. Separate sessions for immediate
81 family members are only permitted as a secondary camp
82 activity. The camp may include facilities for overnight
83 accommodations and for support services related to camp
84 activities. The camp must be compatible with adjacent
85 land uses.
- 86 **[b]** ii. The site fronts on and has direct access to a public road
87 built to arterial or higher road standards. Frontage on and
88 access to an arterial or higher standard is not required
89 where the Hearing Examiner finds that road access by a
90 primary residential or secondary residential road will be
91 safe and adequate for the anticipated traffic to be
92 generated.
- 93 **[c]** iii. The minimum side setback is twice that required for a
94 detached house.
- 95 **[d]** iv. The minimum lot width at the front lot line is twice that
96 required for a detached house.
- 97 **[e]** v. The minimum green area is 50%.

- 98 [f] vi. The maximum coverage is half of the maximum allowed
 99 for a detached house.
- 100 [g] vii. The maximum FAR is 0.2.
- 101 [4] d. In the R and RC zones, the maximum lot area is 5 acres.
- 102 [5] e. In the AR and RNC zones, the minimum lot area is twice that
 103 required for a detached house and the maximum lot area is 2
 104 acres.
- 105 [6] f. In the AR zone, this use may be prohibited under Section 3.1.5,
 106 Transferable Development Rights.
- 107 [7] g. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:
- 108 [a] i. The site fronts on and has direct access to a road built to
 109 primary residential road or higher standards. Access to a
 110 corner lot may be from an abutting primary street,
 111 constructed to primary residential standards, if the
 112 Hearing Examiner finds this access to be appropriate and
 113 not detrimental to existing residential uses on that
 114 primary residential street.
- 115 [b] ii. The minimum side setback is twice that required for a
 116 detached house.
- 117 [c] iii. The minimum lot width at the front lot line is twice that
 118 required for a detached house.
- 119 [d] iv. The maximum FAR is 0.25.
- 120 [e] v. For residential and office uses, if located in a lawfully
 121 existing building, the standards in Section [3.4.2.B.7.b]
 122 3.4.2.B.2.g.ii and Section [3.4.2.B.7.d] 3.4.2.B.2.g.iv do
 123 not apply.

124 [8] h. In the R-90 and R-60 zones, the minimum green area is 50%
125 and the maximum building height is 35 feet.

126 [9] i. In the R-200 zone, the minimum green area is 60% and the
127 maximum building height is 50 feet.

128 [10] j. In the RE-2, RE-2C, and RE-1 zones, the minimum green area
129 is 70%.

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131 * * *

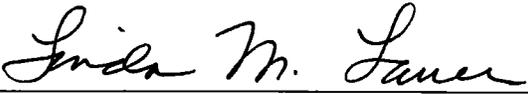
132 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
133 date of Council adoption.

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135 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council