

**MEMORANDUM**

April 9, 2015

TO: Planning, Housing, and Economic Development Committee  
FROM: <sup>JZ</sup> Jeff Zyontz, Legislative Attorney  
SUBJECT: Zoning Text Amendment 15-03, Uses and Use Standards – Licensing

Council President Leventhal is the lead sponsor, at the request of the County Executive, of Zoning Text Amendment (ZTA) 15-03.

On February 3, 2015, the County Executive sent the Council a proposed Bill (9-15) and ZTA (15-03) to help enforcement actions against human trafficking in the County. The Bill would require any “bodyworks” establishment to be licensed. “Bodyworks” establishments provide such services as reflexology, acupressure, and other practices and fall outside the definition of massage. These establishments are sometimes venues for human trafficking.

On March 17, 2015, the Council held a public hearing on ZTA 15-03. Representatives of the Montgomery County Police Department spoke in favor of ZTA 15-03. There was no opposition to the ZTA. Planning Staff recommended approval of ZTA 15-03; the Planning Board had no objections to its approval.

**Issues**

**How will the approval of ZTA 15-03 help efforts against human trafficking?**

Under the proposed ZTA, those land uses for which a license is required must be approved for that license to remain a legal use. Illegal land uses are subject to an immediate cease and desist order. It is expected that transitory businesses that use forced labor will not apply for a license. The ZTA will allow speedy enforcement actions against such businesses. Bill 9-15 will require “body works” establishments, including reflexology and acupressure (businesses that require touching the body of the customer while the customer is clothed) to be licensed. The practitioners at health clinics and massage parlors (where customers may have clothes off) are already required to be licensed or to have licensed practitioners.

### **What is the scope of ZTA 15-03?**

The zoning code already explicitly requires some activities to be licensed. ZTA 15-03 would apply to any activity that requires a license:

**Medical Practitioner:** A healthcare professional licensed or certified by a board administered by the Maryland Department of Health and Mental Hygiene.

The Accessory Apartment is licensed by the Department of Housing and Community Affairs under Chapter 29.

**Home Health Practitioner** means the office of a health practitioner who is licensed or certified by a Board under the Maryland Department of Health and Mental Hygiene

**Amateur Radio Facility (Over 65 Feet in Height)** means any structure used for personal, non-commercial radio communications licensed by the Federal Communications Commission over 65 feet in height.

**Noncommercial Kennel** means any County-licensed establishment used for the keeping, breeding, or care of dogs, cats, or other domestic animals belonging to the site's owner and kept for purposes of show, hunting, breeding, or as pets.

**An Independent Living Facility for Seniors or Persons with Disabilities** must meet all applicable Federal, State, and County licensure, certificate, and regulatory requirements.

**Residential Care Facility** means a group care or similar arrangement for the care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual, in which the facility must meet all applicable Federal, State, and County certificate, licensure, and regulatory requirements.

There are other land use categories where a license is required by other codes, but that requirement is not referenced in the zoning code. The following is a list of notable land uses that require licenses:

- Crematory
- Day care
- Educational Institutions
- Funeral Home
- Hospital
- Hotel (all transient lodging)
- Restaurant
- Vehicle sales
- Veterinary
- Winery

ZTA 15-03 would allow all unlicensed activity to be subject to citations and cease and desist orders without any further detailed investigation.

**Staff recommends approval of ZTA 15-03 as introduced.**

<u>This Packet Contains</u>	<u>© number</u>
ZTA 15-03	1 – 2
Planning Board and Planning Staff recommendations	3 – 4

Zoning Text Amendment No.: 15-03  
Concerning: Uses and Use Standards -  
Licensing  
Draft No. & Date: 1 – 2/5/14  
Introduced: February 10, 2015  
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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Lead Sponsor: Council President Leventhal at the request of the County Executive

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AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- require all land uses to be licensed where the service provider is required to have a license, and
- generally amend use and use standards.

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

DIVISION 59-3.1. “Use Table”  
Section 59-3.1.2. “Use Classifications”

**EXPLANATION:** *Boldface indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.*  
*[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 or text added by this amendment in addition to ZTA 14-09.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.*  
*\* \* \* 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 59-3.1 is amended as follows:**

2           **DIVISION 59-3.1. Use Table**

3           \*   \*   \*

4           **Section 3.1.2. Use Classifications**

5           \*   \*   \*

6           **F. Use Requiring a License**

7           When a use requires a license from the State or County to operate or when a  
8           service provider is required to have a license, the use is allowed only when the  
9           license is in effect.

10          \*   \*   \*

11           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after  
12           approval.

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14           This is a correct copy of Council action.

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17           \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

March 16, 2015

**TO:** The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

**FROM:** Montgomery County Planning Board

**SUBJECT:** Zoning Text Amendment No. 15-03

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 15-03 at our regular meeting on March 12, 2015. By a vote of 5:0, the Planning Board recommends approval of the text amendment to clarify the legal status of land uses and services that are required to have a license.

The County Executive requested a Bill (proposed Bill 9-15) and ZTA to help enforcement actions against human trafficking in the County. The proposed Bill would require any "bodyworks" establishment to be licensed. "Bodyworks" establishments provide such services as reflexology, acupressure, and other practices that fall outside the definition of massage. These establishments are sometimes venues for human trafficking.

Under ZTA No. 15-03, those land uses for which a license is required must have an approved license in order to be considered a legal use. Illegal land uses are subject to an immediate "cease and desist" order. The ZTA will clarify that an illegal business is not permitted and therefore allow speedy enforcement actions against such businesses. The Board has no objection to the proposed legislation.

**CERTIFICATION**

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, March 12, 2015.

A handwritten signature in black ink, appearing to read "Casey Anderson".

Casey Anderson  
Chair

CA:GR

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**Zoning Text Amendment (ZTA) No. 15-03, Uses and Use Standards - Licensing**

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Completed: 02/26/15

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**Description**

Zoning Text Amendment (ZTA) No. 15-03 would clarify the legal status of land uses and services that are required to have a license. Specifically, when a use requires a license from the State or County to operate or when a service provider is required to have a license, the use is allowed only when the license is in effect.

**Summary**

**Staff recommends approval of ZTA No. 15-03 as introduced. The ZTA clarifies that those land uses for which a license is required must have an approved license in order to be considered a legal use.**

**Background/Analysis**

The County Executive requested a Bill (proposed Bill No. 9-15) and ZTA to help enforcement actions against human trafficking in the County. The proposed Bill would require any "bodyworks" establishment to be licensed. "Bodyworks" establishments provide such services as reflexology, acupuncture, and other practices that fall outside the definition of massage. These establishments are sometimes venues for human trafficking.

Under ZTA No. 15-03, those land uses for which a license is required must have an approved license in order to be considered a legal use. Illegal land uses are subject to an immediate "cease and desist" order. The ZTA will clarify that an illegal business is not permitted and therefore allow speedy enforcement actions against such businesses.

**Attachments**

1. ZTA No. 15-03 as introduced