

Ordinance No.: 18-24
Zoning Text Amendment No.: 16-15
Concerning: Facility for Senior and
Disabled - Standards
Draft No. & Date: 3 – 1/31/16
Introduced: November 29, 2016
Public Hearing: January 17, 2017
Adopted: February 7, 2017
Effective: February 27, 2017

**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: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- separate the standards for senior and disabled independent living facilities;
- revise the standards for senior and disabled independent living facilities; and
- generally amend the provisions for senior and disabled independent living facilities.

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

Division 59-3.3. “Residential Uses”
Section 59-3.3.2. “Group Living”

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

Zoning Text Amendment No. 16-15 was introduced on November 29, 2016. The lead sponsor is Councilmember Floreen.

ZTA 16-15 would separate, revise, and generally amend the provisions for senior and disabled independent living facilities.

The current provisions for describing who may live in facilities designated as independent living facilities for seniors and persons with disabilities is no longer in alignment with federal Fair Housing Act regulations.

The Council conducted a public hearing on January 17, 2017. The Planning Board and Planning staff recommended approval with revisions. The Housing Opportunities Commission (HOC) representative spoke in favor of ZTA 16-15.

The Council referred the matter to the Planning, Housing, and Economic Development Committee.

On January 30, 2017, the Committee (3-0) recommended approval of ZTA 16-15 with amendments:

Revise the provisions for housing for persons with disabilities to make the allowances for other household members the same as the provisions proposed for housing for seniors; and

Allow a resident caregiver, if needed by either a senior or a person with a disability.

The District Council reviewed Zoning Text Amendment No. 16-15 on February 7, 2017. The Council agreed with the recommendation of the 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. 16-15 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 59-3.3 is amended as follows:

Division 3.3. Residential Uses

* * *

Section 3.3.2. Group Living

* * *

C. Independent Living Facility for Seniors or Persons with Disabilities

1. Defined

Independent Living Facility for Seniors or Persons with Disabilities means a building containing dwelling units and related services for senior adults or persons with disabilities. Independent Living Facility for Seniors or Persons with Disabilities includes meal preparation and service, day care, personal care, nursing or therapy, or any service to the senior adult or disabled population of the community that is an ancillary part of one of these operations.

2. Use Standards

a. Where an Independent Living Facility for Seniors [or Persons with Disabilities] is allowed as a limited use, it must satisfy the following standards:

- i. The facility must meet all applicable Federal, State, and County licensure, certificate, and regulatory requirements.
- ii. Resident staff necessary for the operation of the facility are allowed to live on-site.
- iii. Occupancy of a dwelling unit is restricted to the following:

- (a) a senior adult [or person with disabilities,], as defined in Section 1.4.2, Defined Terms;
- (b) [the spouse of a senior or disabled resident,] other members of the household of a senior adult, regardless of age [or disability]; [or]
- (c) a [resident care-giver, if needed to assist a senior or disabled resident; or] resident caregiver, if needed to assist a senior resident; or
- (d) a person authorized to occupy housing provided under any federal or state program that is specifically designed and operated to assist [[elderly persons]] seniors as defined in that program.
- [[d)]][in a development designed primarily for persons with disabilities rather than senior adults, one parent, daughter, son, sister, or brother of a handicapped resident, regardless of age or disability.]
- [(e) Age restrictions must]
- (e) If imposing age restrictions that would limit occupancy otherwise allowed by this Subsection, the facility must only impose age restrictions that satisfy at least one type of exemption for housing for older persons from the familial status requirements of the federal "Fair Housing Act," Title VIII of the Civil Rights Act of 1968, as amended, or the state Fair Housing Act, Subtitle 7

of Title 20 of the Annotated Code of Maryland,
State Government Article, as amended.

b. Where an Independent Living Facility for Persons with
Disabilities is allowed as a limited use, it must satisfy the
following standards:

i. The facility must meet all applicable federal, state, and
County licensure, certificate, and regulatory
requirements.

ii. Resident staff necessary for the operation of the facility
are allowed to live on-site.

iii. Occupancy of a dwelling unit is restricted to the
following:

(a) a person with disabilities, as defined in Section
1.4.2, Defined Terms;

(b) [[the spouse of a disabled resident, regardless of
age or disability;

(c) a resident caregiver, if needed to assist a disabled
resident; or

(d) any parent, daughter, son, sister, or brother of a
handicapped resident, regardless of age or
disability.]] other members of the household of a
person with a disability, regardless of age;

(c) a resident caregiver, if needed to assist a resident
with a disability; or

(d) a person authorized to occupy housing provided
under any federal or state program that is

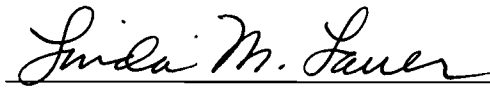
specifically designed and operated to assist persons
with disabilities as defined in that program.

c. Where an Independent Living Facility for Seniors or Persons
with Disabilities is allowed as a conditional use, it may be
permitted by the Hearing Examiner under all limited use
standards, Section 7.3.1, Conditional Use, and the following
standards:

* * *

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

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council