

Ordinance No.: 19-04
Zoning Text Amendment No.: 19-02
Concerning: Clinics - Limited Use
Draft No. & Date: 1-12/19/2018
Introduced: January 15, 2019
Public Hearing: February 26, 2019
Adopted: March 12, 2019
Effective: March 12, 2019

**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 Navarro
Co-sponsor: Councilmember Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow medical and dental clinics as a limited use in Residential Zones
- establish standards for medical and dental clinics as a limited use in Residential zones, and
- generally amend the provisions concerning medical and dental clinics

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

Division 3.1. "Use Table"

Section 3.1.6. "Use Table"

Division 3.5. "Commercial Uses"

Section 3.5.7. "Medical and Dental"

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 (ZTA) 19-02, lead sponsor Council President Navarro and co-sponsor Councilmember Rice, was introduced on January 15, 2019. ZTA 19-02, Clinics – Limited Use would allow medical and dental clinics as accessory uses to certain large institutional uses. Under the current zoning code, any permitted or limited use in a zone may be an accessory use to any other use in the same zone.

ZTA 19-02 is a relatively minor change to the code. It would not change the code to go back to allowing any incidental or subordinate use as an accessory use. The amendment would only liberalize accessory use rules for clinics in any: 1) large residential care facility; 2) charitable, philanthropic institution; 3) large day care center; 4) private educational institution; or 5) place of religious assembly. Clinics with more than 4 practitioners would only be allowed as a minor part (5 percent of the use's total floor area) of the principal use.

In its report to the Council, the Montgomery County Planning Board recommended approval with amendments. Planning staff recommended three revisions. All of their recommendations were suggested by the Planning Board:

- 1) Clarify that accessory use clinics in projects approved as conditional uses must adhere to the minor amendment process for amending the underlying approval.
- 2) Limit the size allowed for clinics with less than 4 practitioners to the same floor area percentage as those with more than 4 practitioners (5 percent of the principal use).
- 3) In the Use Table for R-200, R-90, and R-60 zones, where small clinics are allowed as conditional uses, allow a limited use option.

The Council's public hearing was conducted on February 26, 2019. All testimony supported the approval of ZTA 19-02. Interest was expressed to have the ZTA effective immediately upon adoption.

The Council referred the text amendment to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation.

The PHED Committee held a worksession on March 4, 2019. The Committee recommended approving ZTA 19-02 with amendments:

- Adding the following provision to the section concerning clinics as limited uses:
If the principal use was approved as a conditional use or special exception, then this accessory use must satisfy the Minor Amendment provisions applicable to the principal use.
- Limiting the size for clinics with up to 4 practitioners to the same floor area percentage as those with more than 4 practitioners (5 percent of the principal use).
- Revising the Use Table for R-200, R-90, and R-60 zones, where small clinics are allowed as conditional uses, and allow a limited use option.
- Making ZTA 19-02 effective upon Council approval.

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. 19-02 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 59-3.1 is amended as follows:

Division 3.1. Use Table

* * *

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	Ag	Rural Residential			Residential															* * *
						Residential Detached								Residential Townhouse			Residential Multi-Unit				
		AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10			
* * *																			* * *		
MEDICAL AND DENTAL	3.5.7																				
Clinic (Up to 4 Medical Practitioners)	3.5.7.A					<u>L</u>	<u>L</u>	<u>L</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	* * *		
Clinic (More than 4 Medical Practitioners)	3.5.7.B					<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	* * *		
Medical, Dental Laboratory	3.5.7.C																		* * *		
* * *																			* * *		

Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

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Sec. 2. DIVISION 59-3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.7. Medical and Dental

A. Clinic (Up to 4 Medical Practitioners)

1. Defined

Clinic (Up to 4 Medical Practitioners) means a building occupied by up to 4 medical practitioners and related services to provide healthcare on an outpatient basis.

2. Use Standards

a. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a limited use, it must occupy 5 percent or less of the floor area of the principal use and be an accessory use to one of the following principal uses:

- i. Residential Care Facility (Over 16 Persons);
- ii. Charitable, Philanthropic Institution;
- iii. Day Care Center (Over 30 Persons);
- iv. Educational Institution (Private); or
- v. Religious Assembly.

If the principal use was approved as a conditional use or special exception, then this accessory use must satisfy the Minor Amendment provisions applicable to the principal use.

b. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

[a]i. The minimum lot width at the front lot line is 100 feet.

[b]ii. The minimum setback from a lot that is vacant or residentially improved is 40 feet. The minimum setback from all other abutting lots is 20 feet.

[c]iii. The site must front on and have direct access to a business district street or higher classification; however, access to a corner lot may be from an abutting street built

to primary residential standards, if the Hearing Examiner finds the access to be appropriate and not detrimental to existing residential uses on the primary residential street.

[d]iv. Office space suitable for the practice of the profession must be unavailable in either the nearest Commercial/Residential or Employment zone or the nearest medical clinic office building constructed.

[e]v. A maximum of 4 additional medical practitioners may be present at any one time, and only if the presence of the additional practitioners will not generate additional patient-related traffic. The additional practitioners are only allowed to assist a practitioner in a specific surgical or diagnostic procedure or perform administrative work related to the treatment of patients ~~[[on-site]]~~ on site the same day. A written record must be kept for inspection by County enforcement staff identifying the physicians ~~[[on-site]]~~ on site and their schedules of seeing patients and performing administrative work.

B. Clinic (More than 4 Medical Practitioners)

1. Defined

Clinic (More than 4 Medical Practitioners) means a building occupied by more than 4 medical practitioners and related services to provide healthcare on an outpatient basis. Clinic (More than 4 Medical Practitioners) does not include emergency medical care accessory to a Hospital.

2. Use Standards

a. Where a Clinic (More than 4 Medical Practitioners) is allowed as a limited use, [and] the following conditions must be satisfied:

- i. If the use is located in a CRN zone and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Section 7.3.4.
- ii. If the use is not located in the CRN zone, it must occupy 5 percent or less of the floor area of the principal use and must be an accessory use to one of the following principal uses:

- (a) Residential Care Facility (Over 16 Persons);
- (b) Charitable, Philanthropic Institution;
- (c) Day Care Center (Over 30 Persons);
- (d) Educational Institution (Private); or
- (e) Religious Assembly.

If the principal use was approved as a conditional use or special exception, then this accessory use must satisfy the Minor Amendment provisions applicable to the principal use.

b. Where a Clinic (More than 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use.

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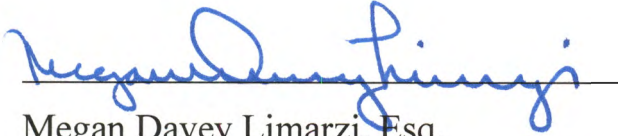
Sec. 3. Effective date. This ordinance becomes effective immediately upon the date of Council adoption.

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96 This is a correct copy of Council action.

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Megan Davey Limarzi, Esq.

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Clerk of the Council