

Ordinance No.: 19-16  
Zoning Text Amendment No.: 20-08  
Concerning: Residential Care Facility  
– Continuing Care  
Retirement Community  
Draft No. & Date: 6 – 5/6/21  
Introduced: December 8, 2020  
Public Hearing: January 19, 2021  
Adopted: May 11, 2021  
Effective: May 31, 2021

**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 at the request of the Planning Board

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

- define the term Continuing Care Retirement Community;
- define the term Senior Care Community; and
- generally amend the provisions for Residential Care Facilities

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

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
<u>Division 3.3.</u>	<u>“Residential Uses”</u>
<u>Section 3.3.2.</u>	<u>“Group Living”</u>

**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) 20-08, lead sponsor Council President Hucker at the request of the Planning Board, was introduced on December 8, 2020.

The Zoning Ordinance currently allows independent living units and residential care facilities in a multi-unit building type if approved as a conditional use. ZTA 20-08 would allow a wider variety of building types by allowing the construction of campus-like communities with a varying level of associated medical services.

In its report to the Council, the Montgomery County Planning Board and Planning Staff recommended approval of ZTA 20-08.

The Council's public hearing was conducted on January 19, 2021. There were four speakers, including the Planning Board Chair. Testimony from the Greater South Glen Neighborhood Association and the West Montgomery County Citizens Association was in opposition. Testimony from Lerch, Early, & Brewer and the Planning Board was in support.

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 April 19, 2021. The Committee recommended approving ZTA 20-08 with amendments. The first amendment is to create a new term in the Zoning Ordinance—"Senior Care Community". The second and third amendments are to list a Senior Care Community as a type of Residential Care Facility and for a Senior Care Community to have the same age restrictions as a Continuing Care Retirement Community. The fourth and fifth amendments are to provide setbacks for the now-allowed building types, by using the standard method of development in the R-30 zone; and a minimum side setback of 20 feet to abutting lots. The sixth and final amendment is to provide a definition for Continuing Care Retirement Community that is in line with the State definition.

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. 20-08 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:*

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

2           **Division 1.4. Defined Terms**

3           \*   \*   \*

4           **Section 1.4.2. Specific Terms and Phrases Defined**

5           In this Chapter, terms that are not specifically defined have their ordinary meaning.

6           The following words and phrases have the meanings indicated.

7           \*   \*   \*

8           **Construction Administration or Sales Office:** See Section 3.5.15.A.1

9           **Continuing Care Retirement Community:** A type of Residential Care Facility  
10          structured in a manner consistent with the Annotated Code of Maryland (COMAR)  
11          32.02.01.][A community providing a continuum of residential occupancy and  
12          health care services for seniors. This community must include assisted living and  
13          residential independent dwelling units and may also include memory care and/or  
14          skilled nursing in one or more buildings of any structure type. The health care and  
15          services component of the community may be located in a structure physically  
16          separated from the independent dwelling units.]]

17          \*   \*   \*

18          **Senior Adult:** A person who is 62 years of age or older.

19          **Senior Care Community:** A community providing a continuum of residential  
20          occupancy and health care services for seniors. This community must include  
21          assisted living and residential independent dwelling units and may also include  
22          memory care and/or skilled nursing in one or more buildings of any structure type.  
23          The health care and services component of the community may be located in a  
24          structure physically separated from the independent dwelling units.

25          \*   \*   \*

26           **Sec. 2. DIVISION 59-3 is amended as follows:**

27           **Division 3.3.2. Group Living**

28 \* \* \*

29 **E. Residential Care Facility**

30 **1. Defined, In General**

31 Residential Care Facility means a group care or similar arrangement  
32 for the care of persons in need of personal services, supervision, or  
33 assistance essential for sustaining the activities of daily living, or for  
34 the protection of the individual, in which:

- 35 a. the facility must meet all applicable Federal, State, and County
- 36 certificate, licensure, and regulatory requirements;
- 37 b. resident staff necessary for operation of the facility are allowed
- 38 to live on-site; and
- 39 c. the number of residents includes members of the staff who
- 40 reside at the facility, but does not include infants younger than
- 41 2 months old.

42 Residential Care Facility includes a nursing home, an assisted living  
43 facility, a [[continuing care retirement community]] Continuing Care  
44 Retirement Community, a hospice, [[and]] a group home, and a Senior  
45 Care Community. Residential Care Facility does not include a  
46 Hospital (see Section 3.4.6, Hospital) or Independent Living Facility  
47 for Seniors or Persons with Disabilities (see Section 3.3.2.C,  
48 Independent Living Facility for Seniors or Persons with Disabilities).

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50 **2. Use Standards**

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52 **c. Residential Care Facility (Over 16 Persons)**

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- ii. Where a Residential Care Facility (Over 16 Persons) 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) The facility may provide ancillary services such as transportation, common dining room and kitchen, meeting or activity rooms, convenience commercial area or other services or facilities for the enjoyment, service or care of the residents. Any such service may be restricted by the Hearing Examiner.
  - (b) A group home for children must provide ample outdoor play space, free from hazard and appropriately equipped for the age and number of children who will use the facility.
  - (c) Where residential dwelling units are provided:
    - (1) the maximum residential density per lot area is 15 units per acre or the maximum density allowed in the zone, whichever is greater; and
    - (2) the minimum green area is 50%.
  - (d) Where facility size is based on the number of beds, not dwelling units, the following lot area is required:
    - (1) In the R, RC, and RNC zones, 2,000 square feet per bed or 5 acres, whichever is greater.

- 80 (2) In all other zones, the minimum lot area is 2  
81 acres or the following, whichever is greater:  
82 [(i)](A) in RE-2, RE-2C, RE-1, and R-  
83 200 zone: 1,200 square feet per bed;  
84 [(ii)](B) in R-60, R-90, and R-40 zone:  
85 800 square feet per bed;  
86 [(iii)](C) in TLD, TMD, THD, R-30, and  
87 R-20 zone: 600 square feet per bed;  
88 and  
89 [(iv)](D) in R-10: 300 square feet per  
90 bed.
- 91 (e) [[The minimum side setback is 20 feet.]]Principal  
92 building setbacks for all building types must meet  
93 the minimum setbacks required under the standard  
94 method of development for the subject building  
95 type in the R-30 zone (see Section 4.4.14.B.3,  
96 Placement).
- 97 (f) [[In the R-10 and R-20 zones, the development  
98 standards of the apartment building type apply,  
99 except as modified by Section 3.3.2.E.2.c.]]The  
100 minimum side setback is 20 feet to abutting lots  
101 not included in the application.
- 102 (g) Independent dwelling units must satisfy the MPDU  
103 provisions of Chapter 25 (Section 25.A-5).
- 104 (h) In a [[continuing care retirement community]]  
105 Continuing Care Retirement Community and a  
106 Senior Care Community, occupancy of any

107 independent dwelling unit is restricted to persons  
108 62 years of age or older, with the following  
109 exceptions:

- 110 (1) the spouse of a resident, regardless of age;
- 111 (2) another relative of a resident, 50 years of  
112 age and older;
- 113 (3) the resident widow, widower, or other  
114 surviving relative of a resident who dies  
115 while residing at the [[continuing care  
116 retirement community]] Continuing Care  
117 Retirement Community or the Senior Care  
118 Community[,] is allowed to remain, even  
119 though the resident widow, widower, or  
120 other surviving relative has not reached the  
121 age of 62.

122 A minimum of 80% of the dwelling units must be  
123 occupied by at least one person per unit who is 55  
124 years of age or older.

125 (i) Height, density, coverage, and parking standards  
126 must be compatible with surrounding uses; the  
127 Hearing Examiner may modify any standards to  
128 maximize the compatibility of the building with  
129 the residential character of the surrounding  
130 neighborhood.

131 (j) In the AR zone, this use may be prohibited under  
132 Section 3.1.5, Transferable Development Rights.

133 \* \* \*

134           **Sec. ~~[[2]]~~3. Effective date.** This ordinance becomes effective 20 days after  
135 the date of Council adoption.

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137 This is a correct copy of Council action.

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140 Selena Mendy Singleton, Esq.

141 Clerk of the Council