

Ordinance No.: 17-15
Zoning Text Amendment No.: 11-08
Concerning: Residential Zones –
Accessory Commercial Kitchen
Draft No. & Date: 2 – 6/15/12
Introduced: December 13, 2011
Public Hearing: January 24, 2012
Adopted: June 26, 2012
Effective: July 16, 2012

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

By: Councilmembers Leventhal and Ervin

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Define a commercial kitchen; and
- Add accessory commercial kitchen as a permitted land use in certain residential zones under certain circumstances.

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

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.31	“Land uses”

EXPLANATION:	<p><i>Boldface</i> indicates a heading or defined term.</p> <p><u><i>Underlining</i></u> indicates text that is added to existing laws by the original text amendment.</p> <p><i>[Single boldface brackets]</i> indicate text that is deleted from existing law by the original text amendment.</p> <p><u><i>Double underlining</i></u> indicates text that is added to the text amendment by amendment.</p> <p><i>[[Double boldface brackets]]</i> indicate text that is deleted from the text amendment by amendment.</p> <p><i>* * *</i> indicates existing law unaffected by the text amendment.</p>
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OPINION

Zoning Text Amendment (ZTA) 11-08, sponsored by Councilmembers Leventhal and Ervin, was introduced on December 13, 2011. ZTA 11-08 would define commercial kitchens as food preparation facilities that satisfy the health code provision for places that prepare food for consumption by the general public. The Maryland State code provisions, which require proper sanitation, ventilation, and food storage facilities, are incorporated by reference.

ZTA 11-08 would allow accessory commercial kitchens in the R-90 and R-60 zones if the primary use of the property is a service use that is permitted without a special exception. ZTA 11-08 would not change the current prohibitions of accessory commercial kitchens in homes. The only service uses that would be allowed to have an accessory commercial kitchen are ambulance or rescue squads, houses of worship, fire stations, and publicly owned or operated uses. The size of an accessory commercial kitchen would be limited to 5 percent of the floor area of the permitted use.

The Planning Board recommended approval of ZTA 11-08 with modifications. The Board recommended the addition of provisions to further mitigate the possible impacts of an accessory commercial kitchen on surrounding residences. These provisions would include: hours of operation; limitation on the size of trucks delivering to the site; limitation on the number of visits per day/week, including deliveries; and a provision establishing adequate off-street parking for the use. The Board suggested that the details of these provisions could take into consideration several parameters established for registered and no-impact home occupations (Section 59-A-6.1).

The Council held a public hearing on January 24, 2012. Six speakers testified in favor of ZTA 11-08. The proponents cited a critical need for low cost commercial kitchens to provide an opportunity for start-up caterers. The Takoma Park Presbyterian Church wanted the ability to help address the needs of its congregation and the general public. Speakers asserted that the County has a critical shortage of commercial kitchens that allow multiple users. In addition, proponents believe providing a lower cost commercial kitchen could promote micro-businesses.

One speaker suggested the need to amend ZTA 11-08 before adoption. Jim Humphrey, who did not have a formal position from the Civic Federation, repeated the concerns identified in the Planning Board's testimony and also suggested that the approval of commercial kitchens as a special exception would give communities a better opportunity to comment on the location, layout, and traffic impact on any proposed commercial kitchen. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on February 29 and June 11, 2012 to review the amendment. On June 11, 2012, the Committee recommended the approval of ZTA 11-08 with the following conditions for a commercial kitchen in a residential zone:

Size: up to 5 percent of the floor area of the principle use (as introduced)

Hours of operation: if rented to a party serving food off-site, 6 AM to 9 PM weekdays, 8 AM to 9 PM weekends

Parking: a parking plan must be provided with a building permit that provides for the number of kitchen users plus one space during the hours of operation; parking could be provided on site or off site.

The Committee considered and rejected a vehicular trip limit and a minimum number of refuse collections per week.

The District Council reviewed Zoning Text Amendment No. 11-08 at a worksession held on June 26, 2012 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. 11-08 will be approved as revised.

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-A-2 is amended as follows:

Division 59-A-2. DEFINITIONS AND INTERPRETATION.

Sec. 59-A-2.1. Definitions.

* * *

Commercial Kitchen: a facility that satisfies the requirements of Chapter 15 for the preparation of food that could be sold to the public.

* * *

Sec. 2. DIVISION 59-C-1 is amended as follows:

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

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Sec. 59-C-1.3. Standard development.

The procedure for approval is specified in Chapter 50.

59-C-1.31. Land uses.

No use is allowed except as indicated in the following table:

- **Permitted Uses.** Uses designated by the letter "P" are permitted on any lot in the zones indicated, subject to all applicable regulations.

- **Special Exception Uses.** Uses designated by the letters "SE" may be authorized as special exceptions under Article 59-G.

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4 plex	RMH 200
* * *										
(g) Miscellaneous.										
* * *										
Commercial kitchen *[[, if accessory to service uses that are permitted without a special exception. However, accessory commercial kitchens are prohibited in home occupations, day care facilities, and adult foster care homes. The accessory commercial kitchen must occupy less than 5% of the building in which it is located and must not be used as part of an on-site eating and drinking establishment.]]						P	P			
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* A commercial kitchen is permitted only as an accessory to a service use that is permitted without a special exception; however, it is prohibited as an accessory use for home occupations, day care facilities, and adult foster care homes. Where a commercial kitchen is allowed, it must:

- (1) occupy less than 5% of the floor area of the building in which it is located;
- (2) not be used as part of an on-site eating and drinking establishment;
- (3) submit a parking plan acceptable to the Director that provides adequate on-site or off-site parking for the users of the commercial kitchen during hours of operation in subsection(4); and

(4) be used for the preparation of food for public consumption off site only
between the hours of 6:00 AM and 9:00 PM weekdays; and 8:00 AM and
9:00 PM weekends.

Sec. 3. Effective date. This ordinance takes effect 20 days after the date of
Council adoption.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council