



Zoning Text Amendment (ZTA) No. 11-08, Accessory Commercial Kitchen

- Gregory Russ, Planner Coordinator, gregory.russ@montgomeryplanning.org, 301-495-2174
- Mary Dolan, Acting Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552
-
-

Completed 1/12/12

Description

ZTA No. 11-08 proposes to define a commercial kitchen; and allow an accessory commercial kitchen as a permitted land use in certain residential zones under certain circumstances. Specifically, a commercial kitchen is being defined in the Zoning Ordinance to coincide with the regulations for a facility that satisfies the requirements of Chapter 15 (Eating and Drinking Establishments) for the preparation of food. A commercial kitchen would be permitted by right as accessory to certain service category uses in the R-60 and R-90 zones that are currently permitted by right. These uses include places of worship, publicly supported ambulance or rescue squads, publicly supported fire stations, publicly owned or publicly operated uses and respite care homes. An 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.

Summary

Staff recommends approval of ZTA 11-08, as introduced, to define a commercial kitchen; and to allow an accessory commercial kitchen as a permitted land use in certain residential zones under certain circumstances, as outlined above.

Chapter 15 of the Montgomery County Code specifies rules governing an eating and drinking establishment which is defined as “any food service facility”. A food service facility is defined as “Any enterprise that prepares or sells food or drink for human consumption on or off the premises”. Food service facility includes:

- (1) Any restaurant, coffee shop, retail market, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain; and
- (2) Any food service facility in an industry, institution, hospital, club, school, church, catering kitchen, or camp.

ZTA 11-08 defines a commercial kitchen to be regulated by Chapter 15 but limits applicability of the use as accessory to certain uses in the R-60 and R-90 zones.

Service Category Uses in One-family Residential Zones

ZTA No. 11-08 proposes to allow an accessory commercial kitchen by right as accessory to certain service category uses in the R-60 and R-90 zones that are currently permitted by right. These uses include places of worship, publicly supported ambulance or rescue squads, publicly supported fire stations, publicly owned or publicly operated uses and respite care homes. Those service category uses permitted by right that would be prohibited from establishing an accessory commercial kitchen include home occupations, day care facilities, and adult foster care homes. As further stated in ZTA 11-08, no use under the service category requiring special exception approval would be permitted to include an accessory commercial kitchen.

Staff recommends approval of ZTA 11-08 given its limited applicability to certain service uses in the R-60 and R-90 zones and the protections that limit the size of the area designated for the commercial kitchen to 5% of the service use and the prohibition on establishing an eating and drinking establishment in conjunction with the facility. With the parameters as set by the proposed text, staff believes that the use will have minimal impact to surrounding neighborhoods.

ATTACHMENTS

1. ZTA 11-08 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 11-08
Concerning: Residential Zones –
 Accessory Commercial Kitchen
Draft No. & Date: 1 – 12/5/11
Introduced: December 13, 2011
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**

By: Councilmember Leventhal

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:

***Boldface** indicates a heading or defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the 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.*

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-A-2 is amended as follows:**

2 **Division 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **Sec. 59-A-2.1. Definitions.**

4 * * *

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

7 * * *

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

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

10 * * *

11 **Sec. 59-C-1.3 Standard development.**

12 The procedure for approval is specified in Chapter 50.

13 **59-C-1.31. Land uses.**

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

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

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

19

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
* * *										
(g) Miscellaneous.										
* * *										
<u>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.</u>						<u>P</u>	<u>P</u>			
* * *										

20

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

23

24 This is a correct copy of Council action.

25

26 _____

27 Linda M. Lauer, Clerk of the Council