

**Zoning Text Amendment (ZTA) No. 12-15, Guest House - Conditions**

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**Completed: 10/18/12**

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**Description**

ZTA 12-15 adds conditions necessary for establishing a guest house. Specifically, the ZTA would modify the definition of guest house to clarify that the owner must reside in the principal dwelling. The ZTA also adds a new section to Section 59-A-6 for a guest house and establishes conditions that limit when a guest house could be located on a lot. The conditions state that a guest house must not be located on a lot:

- (a) that is occupied by a renter;
- (b) where a guest room for rent or a boardinghouse exist; or
- (c) where the owner of the lot resides off-site for more than 6 months in any calendar year.

**Summary/Analysis**

**Staff recommends approval of ZTA 12-15 as introduced** to clarify that a guest house must be located on a lot where the principal residence is occupied by the owner and where no residential rental use exists.

A guest house is defined as *a detached dwelling that is intended, arranged or designed for occupancy by transient, nonpaying visitors*. The Department of Permitting Services interprets the Zoning Ordinance as allowing a guest house for the use of the transient owner of the property when the principal dwelling is rented to a different household. ZTA 12-15 would establish that a guest house must be for the guests of a resident homeowner and that the rental of the principal dwelling (including the rental of a room or where a boardinghouse exists) would extinguish the right to build a guest house.

Comparison of Applicable Standards consistent with Registered Living Unit and Accessory Apartments

An accessory apartment must not be located on a lot that is occupied by a family of unrelated persons; or where exists a guest room for rent, boardinghouse or a registered living unit or *that contains any rental residential use other than an accessory dwelling in an agricultural zone*. The owner of the lot on which the accessory apartment is located must occupy one of the dwelling units, except for bona fide temporary absences not exceeding 6 months in any 12-month period.

A registered living unit is a second dwelling unit that is *part of an owner-occupied one-family detached dwelling*. Some standards associated with this use require that the unit be occupied by no more than 2 persons related to each other by blood, marriage or adoption when one of those persons is a household employee or occupied by no more than 3 persons related by blood, marriage or adoption to the owner- occupant of the main dwelling; except that one may instead be an unrelated care- giver needed to assist a senior adult, ill or disabled relative of the owner-occupant. In addition, *the unit must not be rented for financial remuneration and not be operated on the same lot or parcel as another registered living unit, an accessory apartment, a family of unrelated persons, or any other residential use for which rent is charged*, except an accessory dwelling in an agricultural zone

ZTA 12-15 proposes applicable standards consistent with those associated with accessory apartments and/or registered living units including the prohibition of rental residential uses on the site and the requirement that the owner live on the site at least 6 months of a calendar year. The condition prohibiting a guest house from being located on a lot occupied by a renter (of the principal dwelling) minimizes the potential establishment of illegal detached accessory apartments. (A detached accessory apartment special exception must be on a lot at least one acre in an existing structure before December 2, 1983; on at least two acres thereafter. The property owner can live in the accessory apartment or the principal dwelling).

### Conclusion

In staff's opinion, approval of ZTA 12-15 would clarify the intent for use of a guest house while also minimizing the ability to establish detached accessory apartments without special exception approval.

GR/MD/am

### ATTACHMENTS

1. ZTA 12-15 as introduced

# ATTACHMENT 1

Zoning Text Amendment No.: 12-15  
Concerning: Guest House - Conditions  
Draft No. & Date: 1 – 9/12/12  
Introduced: September 25, 2012  
Public Hearing:  
Adopted:  
Effective:

**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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By: Councilmember Floreen

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AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- add conditions necessary for a guest house

By amending the following section 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.”

And adding the following section:

DIVISION 59-A-6. “USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.”  
Section 59-A-6.19. “Guest House.”

**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 that text 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.*

*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.**

\* \* \*

**House, guest:** A detached dwelling that is intended, arranged or designed for occupancy by transient, nonpaying visitors of the resident owner of the principle dwelling.

\* \* \*

Division 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.

\* \* \*

**Sec. 59-A-6.19. Guest House.**

A guest house is for the transient, nonpaying visitors of the resident owner of the principle dwelling. A guest house must not be located on a lot:

- (a) that is occupied by a renter;
- (b) where a guest room for rent or a boardinghouse exist; or
- (c) where the owner of the lot resides off-site for more than 6 months in any calendar year.

\* \* \*

**Sec. 2. Effective date.** This ordinance becomes effective 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