



Zoning Text Amendment (ZTA) No. 14-07, Accessory Commercial Kitchen - Standards

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Completed: 07/2/14

Description

ZTA No. 14-07 would revise the development standards for an accessory commercial kitchen allow it to occupy less than 5% of the floor area on the tract in common ownership on which the commercial kitchen is located. Currently an accessory commercial kitchen is limited to occupying less than 5% of the floor area of the building which it is located.

Summary

Staff recommends approval, with modifications, of ZTA No. 14-07 to revise the development standards for an accessory commercial kitchen to allow it to occupy less than 5% of the floor area on the tract in common ownership on which the commercial kitchen is located. The modifications are plain language changes to clarify the intent to base the percentage limit on the floor area of all buildings on the tract where the commercial kitchen would be located.

Background/Analysis

The sponsor of ZTA 14-07 believes that accessory commercial kitchens that are limited to 5 percent of the floor area on the tract in common ownership on which the commercial kitchen is located should be allowed. Currently, an accessory commercial kitchen is limited to 5 percent of the floor area of the building accommodating the kitchen.

A commercial kitchen is 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 is permitted by right as accessory to certain service category uses that are currently permitted by right in the R-60 and R-90 zones. These uses include places of worship, publicly supported ambulance or rescue squads, publicly supported fire stations, and publicly owned or publicly operated uses. Those service category uses permitted by right that are prohibited from establishing an accessory commercial kitchen include home occupations, day care facilities, and adult foster care homes. In summary, an accessory commercial kitchen in a residential zone:

- is limited to 5 percent of the floor area of the building where it is located
- *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.

Intent of ZTA 14-07

Staff believes that the intent of ZTA 14-07 is to enlarge the allowable size of an accessory commercial kitchen based on the total floor area of all buildings on a tract of land that is in common ownership where the commercial kitchen is to be located. The language in the ZTA, however seems confusing. Staff recommends modifying the language to clearly reference the intent of the ZTA. Staff suggests the following modifications to Footnote 55:

⁵⁵ 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] of all buildings on the tract in common ownership on which [it] the commercial kitchen is located;

Staff has no objection to the proposed text amendment as modified since the use would continue to be limited in applicability and would be required to provide to DPS a parking plan that provides adequate on-site or off-site parking for the users of the commercial kitchen during hours of operation.

Attachments

1. ZTA No. 14-07 as modified by staff

ATTACHMENT 1

Zoning Text Amendment No.: 14-07
Concerning: Accessory Commercial
Kitchen - Standards
Draft No. & Date: 1 – 6/2/14
Introduced: June 10, 2014
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:

- Revise the development standards for an accessory commercial kitchen

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

DIVISION 59-C-1. “RESIDENTIAL ZONES, ONE-FAMILY.”
Section 59-C-1.31. “Land uses.”

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.*

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-C-1 is amended as follows:

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

* * *

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-4plex	RMH 200
* * *										
(g) Miscellaneous.										
* * *										
Commercial kitchen. ⁵⁵						P	P			
* * *										

⁵⁵ 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:

- 18 (1) occupy less than 5% of the floor area [of the building in] of all buildings on
19 the tract in common ownership on which [it] the commercial kitchen is
20 located;
- 21 (2) not be used as part of an on-site eating and drinking establishment;
- 22 (3) submit a parking plan acceptable to the Director that provides adequate on-
23 site or off-site parking for the users of the commercial kitchen during hours
24 of operation in subsection(4); and
- 25 (4) be used for the preparation of food for public consumption off-site only
26 between the hours of 6:00 AM and 9:00 PM weekdays; and 8:00 AM and
27 9:00 PM weekends.

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30 **Sec. 2. Effective date.** This ordinance takes effect immediately upon the
31 date of Council adoption.

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33 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council