



**Zoning Text Amendment (ZTA) No. 20-08, Residential Care Facility – Continuing Care Retirement Community**

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**Completed: 01/07/21**

**Description**

ZTA 20-08 would provide a definition for the term Continuing Care Retirement Community as a type of Residential Care Facility.

**Summary**

Staff recommends approval of ZTA No. 20-08, with amendments, to define a Continuing Care Retirement Community, and to also add a definition for a Senior Care Community as a type of Residential Care Facility. The submitted ZTA initially intended to only define Continuing Care Retirement Communities, however this term is a state regulated term, therefore Staff proposes the term Senior Care Community as an alternative for the desired use type. This ZTA would allow a wider variety of building types for Residential Care Facilities to be built in a campus-like setting providing an alternative to apartment-like living for seniors.

**Background/Analysis**

The Planning Board, at its meeting dated October 29, 2020, voted 5-0 to transmit a recommendation to the County Council to introduce a ZTA that would define a Continuing Care Retirement Community for the purposes of allowing a senior living project with some amount of stand-alone or one-family type dwelling units. This ZTA, No. 20-08 is the corresponding ZTA to this request.

Residential Care Facilities, covered in Section 3.3.2.E of the Zoning Ordinance, is a type of group care designed for persons in need of some or full assistance in personal services and daily living and currently includes nursing homes, assisted living facilities, continuing care retirement communities, hospice, and group homes. These uses generally require a conditional use approval by the Hearing Examiner through a public hearing process.

Rationale for ZTA Introduction

Montgomery County has seen a steady supply of new Residential Care Facilities constructed, but most have been for seniors requiring advanced levels of nursing care and memory care services, located in apartment buildings where the provided services are housed within the primary structure. Staff has been approached multiple times in recent years by applicants looking to provide communities for seniors that offer a wider variety of housing types and assistance levels within one contained “campus” setting. Some dwellings would be provided under the previously seen model with high levels of care provided in an

apartment building with services within the building, while other more independent units could be built in proximity to the main care giving facility. The goal would be to provide varying levels of care in different types of structures, including detached and attached one-family dwelling types, and apartment building types. Residents needing less intensive care may benefit from the added privacy provided by single-family dwellings, while still having the access and peace of mind knowing necessary services are located within the community.

Staff believes the intent of allowing a Residential Care Facility with some amount of single-family housing units was intended in the Zoning Ordinance by allowing a Continuing Care Retirement Community (CCRC) as an option. However, the Zoning Ordinance never defined a CCRC, leaving the Hearing Examiner's office to rely on the State of Maryland definition of a CCRC, which pertains to financing and operations of such communities rather than the land use composition of them.<sup>1</sup> Defining a CCRC (or similar term) would provide the option for some amount of single-family dwelling types to be included within a Residential Care Facility as part of a Conditional Use approval. This new housing option would afford a level of privacy for seniors who need some but not full assistance. The new building types may also help in context to provide better compatibility with surrounding development than an apartment building type would

#### ZTA 20-08

ZTA 20-08 as introduced by the Council makes one change to the Zoning Ordinance; adding a definition for a Continuing Care Retirement Community under Section 1.4.2 Specific Terms and Phrases Defined. The following is the proposed text:

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

However, as stated earlier, Staff is proposing a modification to the submitted ZTA. Because a CCRC is a defined term with the State of Maryland, there is concern that it would be confusing for Montgomery County to offer up its own, separate definition since applicants for senior housing may be wanting to apply both with the county for this new type of development, and with the state for a CCRC financing structure.

Staff suggests a few modifications. First, the term for a CCRC should still be defined since it is used in the Zoning Ordinance, but should have the following definition:

**Continuing Care Retirement Community:** A type Residential Care Facility structured in a manner consistent with the Annotated Code of Maryland (COMAR) 32.02.01

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<sup>1</sup> Maryland Code Human Services Title Section 10-401 provides: (g) "Continuing care in a retirement community" means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in the written agreement for shelter: (1) to an individual who is at least 60 years of age and not related by blood or marriage to the provider; (2) for the life of the individual or for a period exceeding 1 year; and (3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic charges.

Second, a new term, called a “Senior Care Community” should be defined and added to Section 1.4.2 using the same definition proposed by the ZTA for CCRC’s:

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

By adding a new defined term, one additional change would be needed to the Zoning Ordinance, in Section 3.3.2.E.1 Defined, In General, to add the term Senior Care Community to the list of included types of Residential Care Facilities:

#### **E. Residential Care Facility**

##### **1. Defined, In General**

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

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

Residential Care Facility includes a nursing home, an assisted living facility, a continuing care retirement community, a hospice[, and]] a group home, and a Senior Care Community.

Residential Care Facility does not include a Hospital (see Section [3.4.6](#), Hospital) or Independent Living Facility for Seniors or Persons with Disabilities (see Section [3.3.2.C](#), Independent Living Facility for Seniors or Persons with Disabilities).

This proposed change to the submitted ZTA still provides all the same flexibilities that were contemplated when the Board first transmitted the request to the Council, but clarifies the distinction between state and county defined terms.

#### **Conclusion**

Staff believes that ZTA 20-08, as modified with a new separate term for Senior Care Community, still meets all of the identified intents for the ZTA. Applicants will be able to provide new Residential Care Facility communities that provide a wider range of unit types for different desires and required levels of care, which will be better for future residents and potentially an improvement on compatibility.

#### **Attachment**

1. ZTA No. 20-08 as introduced.

Zoning Text Amendment No.: 20-08  
Concerning: Residential Care Facility  
– Continuing Care  
Retirement Community  
Draft No. & Date: 1 – 9/21/20  
Introduced: December 8, 2020  
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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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; 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”

**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:*

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 community providing a continuum  
10          of residential occupancy and health care services for seniors. This community must  
11          include assisted living and residential independent dwelling units and may also  
12          include memory care and/or skilled nursing in one or more buildings of any  
13          structure type. The health care and services component of the community may be  
14          located in a structure physically separated from the independent dwelling units.

15          \*    \*    \*

16          **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
17          date of Council adoption.

18  
19          This is a correct copy of Council action.

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21          \_\_\_\_\_  
22          Selena Mendy Singleton, Esq.  
23          Clerk of the Council