



## Zoning Text Amendment (ZTA) No. 21-03, Charitable, Philanthropic Institutions - Kitchens

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Completed: 7/8/21

### Description

ZTA 21-03 would amend the use standards for a Charitable, Philanthropic Institution under Section 3.4.2.B of the Zoning Ordinance, to allow on-site food preparation that may be distributed for off-site consumption, if the food is provided for without payment.

### Summary

Staff recommends the Board transmit comments supporting ZTA 21-03 as introduced. The zoning text amendment (ZTA) was introduced by Councilmember Friedson and initially co-sponsored by Councilmember Navarro, but has since been co-sponsored by the entire Council. The Council Public Hearing is scheduled for July 20, 2021.

### Background/Analysis

The Code section 59.3.4.2 was substantially amended in 2015 by ZTA 15-08 and approved by Ordinance 18-05 (Attachment A). This approval added to the definition of Charitable, Philanthropic Institution *housing and support services for persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a hospital*. Further, a new series of limited use standards were established and the use was allowed as a limited use in the R-90 and R-60 zones. The limited use standards clarified the intent of providing provisions and support for family members of those receiving local medical care, if the service is rendered without payment and the facility retained the appearance of a detached house. ZTA 21-03 as introduced adds a new use standard to the Charitable, Philanthropic Institution use in 59.4.2.B.1.d that would state *Food may be prepared on the premises and may be distributed for off-site consumption but must be provided without payment*.

#### Rationale for ZTA Introduction

The intent of the ZTA is not directly discussed in the Council introduction packet for ZTA 21-03 (Attachment B), but during the introduction on June 15, 2021 it was stated that the intent is to help families in need have access to high quality culturally appropriate meals if that is requested.

#### ZTA 21-03 as introduced

ZTA 21-03 makes only one modification to the Zoning Ordinance, under Section 5.3.4.2, Charitable, Philanthropic Institution, specifically Section B use standards. The amendment is as follows:

### Section 3.4.2. Charitable, Philanthropic Institution

\* \* \*

#### B. Use Standards

1. Where a Charitable, Philanthropic Institution is allowed as a limited use, it must satisfy the following standards:

\* \* \*

- c. The support and hospitality services are provided without payment.
- d. Food may be prepared on the premises and may be distributed for off-site consumption but must be provided without payment.
- [d]e. The Charitable, Philanthropic Institution must use an existing detached house and must retain the appearance of a detached house.
- [e]f. The maximum number of guests that may reside on the property at one time is 8, excluding:
  - i. resident staff; or
  - ii. children younger than 2 months of age, when present with a parent or legal guardian.
- [f]g. A maximum of 2 resident staff may live on-site.
- [g]h. One parking space is required for each resident staff member. A minimum of 0.25 parking spaces is required for each guest bed.

The intent of the ZTA is to allow the charitable facilities that currently offer the lodging and support services to long term visitors whose family is seeking local medical treatment, to now offer food support as well. During the ZTA introduction on June 15, it was stated the intent of the meal service was to allow for culturally appropriate meals to be prepared for consumption by those lodging at the facility and their family at the hospital as necessary. One potentially impacted charitable institution also wants the ability to prepare food for other charitable groups such as food pantries. Upon review of the proposed ZTA, Staff did hear some concern that as written, there is no clear limit on how much or how frequently food distribution may take place which could cause compatibility concerns with any uses located in a residential neighborhood. To resolve this concern, Staff suggests a minor edit to Section 3.4.2.B.1.d: For properties that front on and have direct access to a public road with a master-planned right-of-way of 120 feet or greater, food may be prepared on the premises [[and may be distributed]] for off-site consumption but must be provided without payment. Adding the 120-foot wide right-of-way requirement ensures that any added vehicle or delivery trips associated with the food distribution operations are not creating increased traffic or noise to residential streets. By removing 'and may be distributed' from the language it leaves open the option for charitable facilities not along major roads to still prepare food for on-site consumption.

### Conclusion

Staff supports ZTA 21-03 to allow Charitable, Philanthropic Institutions to expand their existing lodging and support services to families of individuals receiving long term medical care to also provide food assistance, with the location stipulation as proposed above. This is a reasonable and logical expansion of the mission for these facilities and should have minimal to no impacts to any existing or future surrounding residents.

### Attachments

- A. ZTA 15-08/Bill 18-05
- B. ZTA No. 21-03 – introduction packet.

Ordinance No.: 18-05  
Zoning Text Amendment No.: 15-08  
Concerning: Charitable Institutions -  
Residential Support  
Draft No. & Date: 2 – 7/20/15  
Introduced: May 21, 2015  
Public Hearing: July 14, 2015  
Adopted: July 28, 2015  
Effective: August 17, 2015

**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 Leventhal  
Co-Sponsors: Council Vice President Floreen and Councilmembers Katz, Rice, Riemer,  
Navarro, Berliner, Elrich, and Hucker

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

Allow charitable residential support facilities under certain circumstances

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

DIVISION 59.3.       “Uses and Use Standards”  
Section 59.3.1.6.     “Use Table”  
Section 59.3.4.2.     “Charitable, Philanthropic Institution”  
[[And adding  
Section 59.3.4.2.F.    “Residential Support Facility”]]

**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.*

## OPINION

On May 21, 2015, the Council introduced ZTA 15-08. The ZTA would allow, under certain circumstances, a charitable institution to provide shelter for people who are supporting a family member at a medical institution in an existing detached house or townhouse.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved with amendments. The Board recommended excluding the townhouse building type from use as a residential support facility and noted that up to 10 persons may reside in the house at one time (8 guests and 2 resident staff persons). The Board made this recommendation despite the fact that a GIS analysis found no existing townhouse building types that fit the locational criteria for permitting the use. The Planning Board also recommended an on-site parking requirement of one space for every 4 guest beds. As introduced in ZTA 15-08, guests may park on the premises of the institution where treatment occurs, but may not park overnight on the site or on residential streets in the surrounding neighborhood.

The Council held a public hearing on July 14, 2015. All of the testimony received expressed support for the ZTA. The Council referred ZTA 15-08 to the Planning, Housing, and Economic Development Committee for its recommendation.

On July 20, 2015, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 15-08 with the following revisions:

- Remove the requirement for a residential support institution to be on a major highway (Subsection 3.4.2.B.1.e);
- Remove the requirement to be near a federal facility or hospital (Subsection 3.4.2.B.1.j);
- Add a requirement for on-site parking – .25 spaces for each guest, as proposed by the Planning Board;
- Editorial changes recommended by the Planning Board, except for the addition of the phrase “or family” after the word “household”.

In the opinion of the Committee, the ZTA as introduced was overly restrictive to a very positive charitable facility. The Committee noted the extremely limited number of charities that may be willing to take on the burden of uncompensated residential support.

The District Council reviewed Zoning Text Amendment No. 15-08 at a worksession held on July 28, 2015 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. 15-08 will be approved as amended.

## *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 59.3 is amended as follows:**

**DIVISION 59.3. Uses and Use Standards**

**Section 3.1.6. Use Table**

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	* * *	Residential													* * *
			Residential Detached								Residential Townhouse			Residential Multi-Unit		
			RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	
* * *																
CIVIC AND INSTUTIONAL																
* * *																
CHARITABLE, PHILANTHROPIC INSTITUTION	3.4.2		C	C	C	C	L/C	L/C								
* * *																

\* \* \*

**Section 3.4.2. Charitable, Philanthropic Institution**

**A. Defined**

1. Charitable, Philanthropic Institution means a private, tax-exempt organization whose primary function is to provide:
  - a. services, research, or educational activities in areas such as health[, ] and social [[service,]] services;
  - b. housing and support services for [[caregivers]] persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital[.];
  - c. recreation[.]; or
  - d. environmental conservation.

\* \* \*

**B. Use Standards**

1. Where a Charitable, Philanthropic Institution is allowed as a limited use, [[in the R-60 and R-90 zones,]] it must satisfy the following standards:

- a. [[A]] The Charitable, Philanthropic Institution must [[reuse a dwelling to]] be primarily [[provide]] for the provision of support and hospitality services for [[multiple guests]] persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital.
- b. Services may be provided daily, during any hours, to persons [[or households]] who are not permanent residents of the premises but are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a [[hospital]] Hospital.
- c. The support and hospitality services are provided without payment [[by a tax-exempt organization]].
- d. [[Residential support facilities]] The Charitable, Philanthropic Institution must use an existing detached house [[or townhouse building type]] and must retain the appearance of a detached house [[or townhouse building type, as applicable]].
- [[e. The property fronts on and has direct access to a public road classified as a major highway with a master-planned right-of-way of 120 feet or greater.]]

45           [[f]   The building must comply with the detached house or  
 46                   townhouse building type development standards of the zone in  
 47                   which it is located.]]

48           [[g]] e.       The maximum number of guests that may reside on the  
 49                   property at one time is 8, excluding:

50                   i.     resident staff; or

51                   ii.    children younger than 2 months of age, when present  
 52                       with a parent or legal guardian.

53           [[h]] f.       [[Up to]] A maximum of 2 resident staff [[necessary for  
 54                   the operation of the facility]] may live on-site.

55           [[i]] g.       One parking space is required for each resident staff  
 56                   member. [[Guests or guest households may park on the  
 57                   premises of the institution where treatment occurs, but must not  
 58                   park overnight on the site or on residential streets in the  
 59                   surrounding neighborhood.]] A minimum of 0.25 parking  
 60                   spaces is required for each guest bed.

61           [[j].   The property must be within 100 feet, excluding public rights-  
 62                   of-way, from the boundary of a research and treatment facility  
 63                   owned and operated by the federal government and containing  
 64                   at least 200 acres.]]

65           2.   Where a Charitable, Philanthropic Institution is allowed as a  
 66                   conditional use, it may be permitted by the Hearing Examiner under  
 67                   Section 7.3.1, Conditional Use, and the following standards:

68           [1]   a.     Screening under Division 6.5 is required for outdoor recreation  
 69                   facilities.

70           [2]   b.     Any lighting associated with outdoor recreation facilities must  
 71                   satisfy Section 6.4.4.



72 [3] c. In the AR, R, RC, and RNC:

73 [a] i. A Charitable, Philanthropic Institution must re-use an  
74 existing building. The Hearing Examiner may waive this  
75 restriction to approve a residential camp for seriously ill  
76 children and their immediate family members, operated  
77 or sponsored by a non-profit organization under the  
78 following conditions. Immediate family members may  
79 attend sessions jointly with or separate from the sessions  
80 attended by the children. Separate sessions for immediate  
81 family members are only permitted as a secondary camp  
82 activity. The camp may include facilities for overnight  
83 accommodations and for support services related to camp  
84 activities. The camp must be compatible with adjacent  
85 land uses.

86 [b] ii. The site fronts on and has direct access to a public road  
87 built to arterial or higher road standards. Frontage on and  
88 access to an arterial or higher standard is not required  
89 where the Hearing Examiner finds that road access by a  
90 primary residential or secondary residential road will be  
91 safe and adequate for the anticipated traffic to be  
92 generated.

93 [c] iii. The minimum side setback is twice that required for a  
94 detached house.

95 [d] iv. The minimum lot width at the front lot line is twice that  
96 required for a detached house.

97 [e] v. The minimum green area is 50%.

- 98 [f] vi. The maximum coverage is half of the maximum allowed  
 99 for a detached house.
- 100 [g] vii. The maximum FAR is 0.2.
- 101 [4] d. In the R and RC zones, the maximum lot area is 5 acres.
- 102 [5] e. In the AR and RNC zones, the minimum lot area is twice that  
 103 required for a detached house and the maximum lot area is 2  
 104 acres.
- 105 [6] f. In the AR zone, this use may be prohibited under Section 3.1.5,  
 106 Transferable Development Rights.
- 107 [7] g. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:
- 108 [a] i. The site fronts on and has direct access to a road built to  
 109 primary residential road or higher standards. Access to a  
 110 corner lot may be from an abutting primary street,  
 111 constructed to primary residential standards, if the  
 112 Hearing Examiner finds this access to be appropriate and  
 113 not detrimental to existing residential uses on that  
 114 primary residential street.
- 115 [b] ii. The minimum side setback is twice that required for a  
 116 detached house.
- 117 [c] iii. The minimum lot width at the front lot line is twice that  
 118 required for a detached house.
- 119 [d] iv. The maximum FAR is 0.25.
- 120 [e] v. For residential and office uses, if located in a lawfully  
 121 existing building, the standards in Section [3.4.2.B.7.b]  
 122 3.4.2.B.2.g.ii and Section [3.4.2.B.7.d] 3.4.2.B.2.g.iv do  
 123 not apply.

[8] h. In the R-90 and R-60 zones, the minimum green area is 50% and the maximum building height is 35 feet.

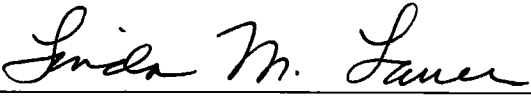
[9] i. In the R-200 zone, the minimum green area is 60% and the maximum building height is 50 feet.

[10] j. In the RE-2, RE-2C, and RE-1 zones, the minimum green area is 70%.

\* \* \*

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

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



**Committee:** PHED  
**Committee Review:** At a future date  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #CharityKitchen,  
#CharitablePhilanthropicInstitutions

AGENDA ITEM #16B  
June 15, 2021  
**Introduction**

## SUBJECT

Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens

Lead Sponsor: Councilmember Friedson

Co-Sponsor: Councilmember Navarro

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

## DESCRIPTION/ISSUE

ZTA 21-03 will allow charitable and philanthropic institutions to have kitchens under certain circumstances.

## SUMMARY OF KEY DISCUSSION POINTS

- Charitable, Philanthropic Institutions may provide shelter for people who are supporting a family member at a medical institution in an existing detached house or townhouse.
- ZTA 21-03 will allow those institutions to prepare food on the premises.
- The food may be distributed for off-site consumption but must be provided without payment.

### This report contains:

Staff Report

ZTA 21-03

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**MEMORANDUM**

June 10, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens

PURPOSE: Introduction

Zoning Text Amendment (ZTA) 21-03, Charitable, Philanthropic Institution – Kitchens, lead sponsor Councilmember Friedson, co-sponsor Councilmember Navarro, is scheduled to be introduced on June 15, 2021.

In 2015, the Council passed ZTA 15-08, Charitable Institutions – Residential Support. ZTA 15-08 allowed a charitable institution to provide shelter for people who are supporting a family member at a medical institution in an existing detached house or townhouse. ZTA 21-03 would allow food to be prepared on the premises and distributed for off-site consumption, but without payment.

A public hearing is tentatively scheduled for July 20, 2021 at 1:30 p.m.

This packet contains:  
ZTA 21-03

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Zoning Text Amendment No.: 21-03  
Concerning: Charitable, Philanthropic  
Institution – Kitchens  
Draft No. & Date: 1 – 6/7/2021  
Introduced: June 15, 2021  
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**

---

Lead Sponsor: Councilmember Friedson  
Co-Sponsor: Councilmember Navarro

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- allow charitable and philanthropic institutions to have kitchens under certain circumstances

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

Division 3.4.                    “Civic and Institutional Uses”  
Section 3.4.2.                “Charitable, Philanthropic Institution”

**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 59-3 is amended as follows:**

\* \* \*

**Section 3.4.2. Charitable, Philanthropic Institution**

\* \* \*

**B. Use Standards**

1. Where a Charitable, Philanthropic Institution is allowed as a limited use, it must satisfy the following standards:

a. The Charitable, Philanthropic Institution must be primarily for the provision of support and hospitality services for persons who are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital.

b. Services may be provided daily, during any hours, to persons who are not permanent residents of the premises but are present as a result of treatment or care being provided to a member of their household by a federal treatment facility or a Hospital.

c. The support and hospitality services are provided without payment.

d. Food may be prepared on the premises and may be distributed for off-site consumption but must be provided without payment.

~~[d]~~e. The Charitable, Philanthropic Institution must use an existing detached house and must retain the appearance of a detached house.

~~[e]~~f. The maximum number of guests that may reside on the property at one time is 8, excluding:

i. resident staff; or



ii. children younger than 2 months of age, when present  
with a parent or legal guardian.

[f]g. A maximum of 2 resident staff may live on-site.

[g]h. One parking space is required for each resident staff member. A  
minimum of 0.25 parking spaces is required for each guest bed.

\* \* \*

**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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Selena M. Singleton, Esq.  
Clerk of the Council