

## ZTA 25-08

### EXEMPTIONS – LANDSCAPE CONTRACTOR




#### Description

This ZTA would amend the existing legacy protections for certain Landscape Contractors in the RC Zone to allow one violation for expanding the total square footage of onsite operations above that existing on October 30, 2014, before a conditional use approval is required.

ZTA 25-08  
Completed: 6-26-25

MCPB  
Item No. 4  
7-3-25

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#### ZTA SPONSORS

Co-Sponsor:  
Councilmember Mink

#### INTRODUCTION DATE

June 10, 2025

#### COUNCIL PUBLIC HEARING DATE

July 15, 2025

#### REVIEW BASIS

Chapter 59

## Summary

- ZTA 18-09, approved by Ordinance 18-49, established a provision that any Landscape Contractor in the RC Zone in operation on October 30, 2014, is a permitted use if it satisfies any impervious surface limits and is otherwise not required to obtain a conditional use approval, unless the on-site operations are expanded, on-site retail is added, or the issue is discontinued.
- ZTA 25-08 amends this provision, to require conditional use if more than one violation notice is issued because of expansion or enlargement of the square footage of on-site operations.

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## SECTION 1 – BACKGROUND

### Rationale For Introduction

Zoning Text Amendment (ZTA) 25-08, Exemptions – Landscape Contractor was introduced on June 10, 2025, by Councilmember Mink (Attachment A). The ZTA is scheduled for a District Council Public Hearing on July 15, 2025.

ZTA 25-08 amends the exemption section at 59-7.7.1.D.8.d., specific to Landscape Contractors in the RC Zone, which was established with ZTA 18-09 (Ordinance 18-49) (Attachment B). The exemption applies to any Landscape Contractor in operation on October 30, 2014, and it permits them as a legal use. Conditional use is only required if:

- The use is enlarged or expanded beyond the on-site operations as of October 30, 2014,
- The on-site operation is diversified to include retail, or
- The operation is discontinued for more than six months.

ZTA 25-08 amends the exemption in Section 7.7.1.D.8.d. to add a new provision about violations, and for clarity. In most cases, where a Landscape Contractor has an approved plan and permits, if the Department of Permitting Services (DPS) issues a violation, its based on not following the requirements of an approved plan., Restoring a site back to the limits of disturbance allowed by the approved plans could be part of resolving the violation. For any Landscape Contractor where this exemption applies, the use is deemed legal by code, but there are no approved plans. DPS has to make a determination on the area of on-site operation based on aerial photography taken in 2014. As written, the code says a conditional use is required if on-site operations are expanded, providing DPS no mechanism to allow a Landscape Contractor to restore the site. The result is that the Landscape Contractor must shut down or apply for and receive a conditional use approval.

This ZTA adds a provision that conditional use approval is only needed if more than one violation notice is issued for expanding or enlarging the square footage. It may seem counterintuitive that the code should proactively allow for a site violation. However, this is the procedural way to allow an otherwise legal Landscape Contractor to restore the size of on-site operations back to 2014 levels. The ZTA also clarifies that the on-site operations are measured as a total square footage of impacted area, providing greater clarity on what is meant by expanding or enlarging the operation.

Based on current North American Industry Classification System data, there are 21 identified Landscape Contractor uses in the RC zone (Attachment D). Looking at the approved special exception/conditional uses and 2014 imagery, it appears there are approximately nine properties that are protected by the legacy exemption in the code section modified by the ZTA.

## SECTION 2 – TEXT AS INTRODUCED

### ZTA 25-08 As Introduced

#### EXEMPTIONS AND NONCONFORMITIES DIVISION 7.7.

All the amendments associated with ZTA 25-08 are located within the Exemptions and Nonconformities Division, specifically under Section 7.7.1.D.8., Exempted Lots, Parcels, and Buildings in the Rural Cluster Zone.

The first change appears on lines 13-14. Currently, the section is set up so that a conditional use is not required unless the following provisions are met. The new language more clearly states that a conditional use approval is required if the following provisions are met.

The next change, as part of Section 7.7.D.1.8.d.i on lines 15-16, is where the language is added that more than one violation notice for expanding or enlarging the on-site operations is inserted. As stated earlier in this report, this is the necessary way to enable a Landscape Contractor who otherwise qualifies for an exemption from conditional use to be allowed to restore the site to 2014 levels if cited in a violation. The language would still require a conditional use application to be filed (or an alternative, the site to shut down) if a second violation were issued. Landscape Contractors protected by the codes conditional use exemption may not have known they were exempt. Allowing one violation provides these businesses adequate knowledge of how to remain in compliance with the limitations of the exemption.

The final change, on lines 17-18 of the ZTA, adds the language clarifying the on-site operations as of October 30, 2014 are measured as the total square footage of the operation.

## SECTION 3 – CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each Zoning Text Amendment, Master Plan, and Master Plan Amendment, effective March 1, 2023. Each Climate Assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and on community resilience and adaptive capacity. The climate impact assessment for ZTA 25-08 is attached in Attachment C.

Planning Staff anticipates slight positive and negative impacts to greenhouse gas emissions and sequestration, and mostly slight positive impacts to adaptive capacity and community resilience with ZTA 25-08. Because the ZTA would allow Landscape Contractors in violation of their size of operation one opportunity to restore the site back to the size of operation on October 30, 2014, that could lead

to increases in vegetative cover and reduced flood risk. The main negative factor comes from building embodied emissions, if restoration involves having to remove asphalt or demolish buildings before their natural lifespan has passed, considering the carbon that went into the initial construction of these features.

## SECTION 4 – CONCLUSION

Planning Staff recommends the Planning Board support ZTA 25-08 as introduced. The ZTA updates the exemptions for certain legal Landscape Contractors in the RC Zone to allow for one violation to be issued pertaining to the size of the onsite operations without requiring a conditional use application.

## SECTION 5 – ATTACHMENTS

*Attachment A: Zoning Text Amendment 25-08 Intro Packet*

*Attachment B: ZTA 18-09/Ordinance 18-49*

*Attachment C: Climate Assessment 25-08*

*Attachment D: Map of Landscape Contractors in the RC Zone*