

Ordinance No.: 18-14
Zoning Text Amendment No.: 16-04
Concerning: Agricultural Reserve
(AR) Zone – Transitory
Uses
Draft No. & Date: 1 – 4/20/16
Introduced: April 26, 2014
Public Hearing: June 21, 2016
Adopted: July 12, 2016
Effective: August 1, 2016

**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 Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow transitory uses in the Agricultural Reserve Zone on property with a recorded transferable development rights easement.

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

DIVISION 59-3.1. “Use Table”

Section 3.1.5. “Transferable Development Rights”

DIVISION 59-3.5. “Commercial Uses”

Section 3.5.15. “Temporary Commercial Uses”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.

[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 or text added by this amendment in addition to ZTA 14-09.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 16-04, introduced on April 26, 2016, would amend the Agricultural Reserve zone by deleting the transitory uses from the list of prohibited uses when transferable development rights (TDRs) are severed from a property. Councilmember Riemer is the lead sponsor of ZTA 16-04.

In its report to the Council, the Montgomery County Planning Board recommended approval of ZTA 16-04, stating that a transitory use could enhance agricultural activities without diminishing the County's land preservation goals. The short-term nature of transitory uses would not impede the intent of the AR zone, in their opinion. Planning Staff also recommended approval of ZTA 16-04 as introduced.

The Council conducted a public hearing on June 21, 2016. Other than the Planning Board representative, there were no speakers at the hearing. The Montgomery County Farm Bureau also supports ZTA 16-04 as a means to help connect residents to farming. The Agricultural Advisory Committee wrote in support of ZTA 16-04. In their opinion, ZTA 16-04 would make it possible for farmers to promote their farms more effectively by accommodating the food and refreshment needs of visitors.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

On June 27, 2017, the Committee (3-0) recommended approval of ZTA 16-04 as introduced. In the opinion of the Committee, transitory uses do not have a permanent footprint on the landscape and should not focus the assembly of visitors at a single time and place.

The District Council reviewed Zoning Text Amendment No. 16-04 at a worksession held on July 12, 2016. The Council agreed with the Committee recommendations.

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. 16-04 will be approved as introduced.

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 59-3.1 is amended as follows:**

2 **DIVISION 3.1. Use Table**

3 * * *

4 **Section 3.1.5. Transferable Development Rights**

5 A. The following uses are prohibited if the lot or parcel on which the use is
6 located is in the AR zone and is encumbered by a recorded Transfer of
7 Development Rights easement:

8 * * *

9 **4. Commercial**

- 10 a. Veterinary Office/Hospital
- 11 b. Bed and Breakfast (if not accessory to Farming)
- 12 c. Cemetery
- 13 d. Funeral Home, Undertaker
- 14 e. Lawn Maintenance Service
- 15 f. Rural Antique Shop
- 16 g. Shooting Range (Outdoor)
- 17 [h. Transitory Use]

18 * * *

19 **Sec. 2. DIVISION 59-3.5 is amended as follows:**

20 **DIVISION 3.5. Commercial Uses**

21 * * *

22 **Section 3.5.15. Temporary Commercial Uses**

23 * * *

24 **C. Transitory Use**

25 **1. Defined**

26 Transitory Use means a use on private property or the public right-of-
27 way conducted from a vehicle or from a movable structure that

28 remains in the same location for less than 24 hours. Transitory Use
29 includes a food service truck.

30 **2. Use Standards**

31 Where a Transitory Use is allowed as a limited use, it must satisfy the
32 following standards:

- 33 a. A Transitory Use must be registered under Chapter 47.
- 34 b. A Transitory Use may be located in the public right-of-way
35 where it satisfies Chapter 47.
- 36 c. A Transitory Use may be allowed on private property only if it
37 would be allowed as a permanent use in the applicable zone
38 under Section 3.1.6.
- 39 d. A Transitory Use is prohibited on any portion of the open space
40 required by the zone in which the property is located.
- 41 [e. In the AR zone, this use may be prohibited under Section 3.1.5,
42 Transferable Development Rights.]

43
44 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after
45 approval.

46
47 This is a correct copy of Council action.

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50 Linda M. Lauer, Clerk of the Council