

Ordinance No.: 18-11  
Zoning Text Amendment No.: 15-14  
Concerning: Conditional Use  
Amendment - Business  
Vehicles  
Draft No. & Date: 3 – 2/3/16  
Introduced: December 8, 2015  
Public Hearing: January 12, 2016  
Adopted: February 9, 2016  
Effective: February 29, 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: Council President Floreen  
Co-sponsors: Councilmembers Riemer, Leventhal, Katz, Berliner, and Navarro

---

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

- exempt vehicles doing business on a site with a conditional use from the conditional use amendment process; and
- generally allow for exemptions to the process of conditional use amendments.

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

DIVISION 59-7.3. “Regulatory Approvals”  
Section 59-7.3.1. “Conditional Use”

**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) 15-14 was sponsored by Council President Floreen and co-sponsored by Councilmembers Riemer, Leventhal, Katz, Berliner, Navarro, and Rice. It would allow business vehicles, such as food trucks, on sites with conditional use approval without going through the Conditional Use amendment process.

The sponsor and co-sponsors believe that the process for allowing businesses in mobile vehicles on sites such as filling stations is overly burdensome. The direct fees alone for an amendment on a filling station conditional use site is \$1,500. This ZTA would allow uses permitted as of right under the property's zoning to proceed without an amendment to a previously granted conditional use. The added use would be required to retain required parking, open space, and street access.

In its report to the Council, the Montgomery County Planning Board recommended approval with an amendment to avoid conflict with unique conditions of approval. The Planning Staff had an identical recommendation and also recommended allowing "limited" uses.

The Council held a public hearing on January 12, 2016. Testimony was not received from anyone other than the Planning Board and Planning Staff.

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

On February 1, 2016, the Committee (3-0) recommended approval of ZTA 15-14 with 2 revisions to include:

- 1) a requirement that the business vehicle must not conflict with any unique condition of the special exception or conditional use approval; and
- 2) limited uses for business vehicles that are allowed by the site's zoning.

Staff suggested a limit to the number of vehicles on any one site in his memo to the Committee. The Committee did not make that recommendation to the Council.

The District Council reviewed Zoning Text Amendment No. 15-14 at a worksession held on February 9, 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. 15-14 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:*

1           **Sec. 1. DIVISION 59-7.3 is amended as follows:**

2       **DIVISION 7.3. Regulatory Approvals**

3       **Section 7.3.1 Conditional Use**

4       \*    \*    \*

5       **K.     Amendments**

6           **1.     Major Amendment**

7       \*    \*    \*

8           **2.     Minor Amendment**

- 9           a.     A minor amendment to a conditional use may be approved  
10                   administratively by the Hearing Examiner or Board of Appeals,  
11                   as applicable, depending on which entity approved the  
12                   conditional use. A minor amendment to a conditional use is one  
13                   that does not change the nature, character, or intensity of the  
14                   conditional use to an extent that substantial adverse effects on  
15                   the surrounding neighborhood could reasonably be expected,  
16                   when considered in combination with the underlying  
17                   conditional use.

18       \*    \*    \*

19           **3.     Exemption from Amendment Procedure**

20           An amendment to a special exception or a conditional use is not  
21           required for a permitted or limited use allowed in the subject  
22           property's zone [[as a permitted use]] if the [[use]] enterprise satisfies  
23           any unique conditions of the special exception or conditional use  
24           approval and the use is located:

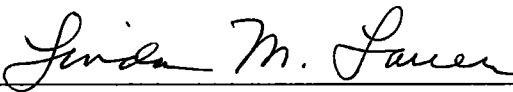
- 25           a.     in a mobile vehicle;  
26           b.     in [[an]] a manner that allows vehicles to access the site from  
27                   abutting rights-of-way;

- 28                   c.    in a manner that allows all uses on the site to satisfy the  
29                           minimum parking requirements; and  
30                   d.    on an area not required for open space or green area.

31   \*   \*   \*

32           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after  
33 approval.

34  
35 This is a correct copy of Council action.

36  
37 

38 Linda M. Lauer, Clerk of the Council