

Public Hearing

MEMORANDUM

February 22, 2019

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst *JZ*

SUBJECT: Zoning Text Amendment 19-02, Clinics – Limited Use

PURPOSE: Public hearing – no vote required

Zoning Text Amendment (ZTA) 19-02, lead sponsor Council President Navarro and co-sponsor Councilmember Rice, was introduced on January 15, 2019. ZTA 19-02, Clinics – Limited Use would allow medical and dental clinics as an accessory to certain large institutional uses.¹ Under the current zoning code, any permitted or limited use in a zone may be an accessory use to any other use in the same zone. Before 2014, an accessory use could be any use that was incidental and subordinate to the principal use. Under this older provision, the Department of Permitting Services allowed medical and dental clinics as accessory uses to some institutional uses. That is no longer the case because those uses are not listed as permitted or limited uses in many residential zones. ZTA 19-02 would allow accessory use clinics that are limited in size in all residential zones. In zones where such clinics are currently allowed as a conditional use (R-200, R-90, R-60), the standards for the use would be unchanged.

ZTA 19-02 is a relatively minor change to the code. It would not change the code to go back to allowing any incidental or subordinate use as an accessory use. The amendment would only liberalize accessory use rules for clinics in any: 1) large residential care facility; 2) charitable, philanthropic institution; 3) large day care center; 4) private educational institution; or 5) place of religious assembly. Clinics with more than 4 practitioners would only be allowed as a minor part (5% of the use's total floor area) of the principal use.

A Planning, Housing, and Economic Development Committee worksession on ZTA 19-02 is tentatively scheduled for March 4, 2019.

This packet contains
ZTA 19-02

© number
1 – 6

¹ Key words: #MoCoMedical&DentalClinics, plus search terms accessory use, clinics, medical clinic, dental clinic.

Zoning Text Amendment No.: 19-02
Concerning: Clinics - Limited Use
Draft No. & Date: 1-12/19/2018
Introduced: January 15, 2019
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: Council President Navarro
Co-sponsor: Councilmember Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow medical and dental clinics as a limited use in Residential Zones
- establish standards for medical and dental clinics as a limited use in Residential zones, and
- generally amend the provisions concerning medical and dental clinics

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

Division 3.1. "Use Table"
Section 3.1.6. "Use Table"
Division 3.5. "Commercial Uses"
Section 3.5.7. "Medical and Dental"

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 59-3.1 is amended as follows:**

2 **Division 3.1. Use Table**

3 * * *

4 **Section 3.1.6. Use Table**

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

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential													* * *		
					Residential Detached								Residential Townhouse			Residential Multi-Unit				
					AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD		THD	R-30
* * *																				* * *
MEDICAL AND DENTAL	3.5.7																			
Clinic (Up to 4 Medical Practitioners)	3.5.7.A					L	L	L	C	C	C			L	L	L	L	L	L	* * *
Clinic (More than 4 Medical Practitioners)	3.5.7.B					L	L	L	L	L	L	L		L	L	L	L	L	L	* * *
Medical, Dental Laboratory	3.5.7.C																			* * *
* * *																				* * *

7 **Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

8 * * *

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

10 **Division 3.5. Commercial Uses**

11 * * *

12 **Section 3.5.7. Medical and Dental**

13 **A. Clinic (Up to 4 Medical Practitioners)**

14 **1. Defined**

15 Clinic (Up to 4 Medical Practitioners) means a building occupied by up to 4
16 medical practitioners and related services to provide healthcare on an
17 outpatient basis.

18 **2. Use Standards**

19 a. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a
20 limited use, it must be an accessory use to one of the following
21 principal uses:

- 22 i. Residential Care Facility (Over 16 Persons);
- 23 ii. Charitable, Philanthropic Institution;
- 24 iii. Day Care Center (Over 30 Persons);
- 25 iv. Educational Institution (Private); or
- 26 v. Religious Assembly.

27 b. Where a Clinic (Up to 4 Medical Practitioners) is allowed as a
28 conditional use, it may be permitted by the Hearing Examiner
29 under Section 7.3.1, Conditional Use, and the following
30 standards:

- 31 [a]i. The minimum lot width at the front lot line is 100 feet.
- 32 [b]ii. The minimum setback from a lot that is vacant or
33 residentially improved is 40 feet. The minimum setback
34 from all other abutting lots is 20 feet.
- 35 [c]iii. The site must front on and have direct access to a
36 business district street or higher classification; however,
37 access to a corner lot may be from an abutting street built
38 to primary residential standards, if the Hearing Examiner
39 finds the access to be appropriate and not detrimental to
40 existing residential uses on the primary residential street.

41 [d]iv. Office space suitable for the practice of the profession
42 must be unavailable in either the nearest
43 Commercial/Residential or Employment zone or the
44 nearest medical clinic office building constructed.

45 [e]v. A maximum of 4 additional medical practitioners may be
46 present at any one time, and only if the presence of the
47 additional practitioners will not generate additional
48 patient-related traffic. The additional practitioners are
49 only allowed to assist a practitioner in a specific surgical
50 or diagnostic procedure or perform administrative work
51 related to the treatment of patients on-site the same day.
52 A written record must be kept for inspection by County
53 enforcement staff identifying the physicians on-site and
54 their schedules of seeing patients and performing
55 administrative work.

56 **B. Clinic (More than 4 Medical Practitioners)**

57 **1. Defined**

58 Clinic (More than 4 Medical Practitioners) means a building occupied
59 by more than 4 medical practitioners and related services to provide
60 healthcare on an outpatient basis. Clinic (More than 4 Medical
61 Practitioners) does not include emergency medical care accessory to a
62 Hospital.

63 **2. Use Standards**

64 a. Where a Clinic (More than 4 Medical Practitioners) is allowed
65 as a limited use, [and] the following conditions must be
66 satisfied:

