

Introduction

MEMORANDUM

May 1, 2009

TO: County Council

FROM: Jeffrey L. Zyontz, ^{JL}Legislative Attorney

SUBJECT: **Introduction:** Zoning Text Amendment 09-03, Home Occupations and Residential Off-Street Parking

Zoning Text Amendment (ZTA) 09-03, introduced at the request of the County Executive, is scheduled to be introduced on May 5, 2009. A public hearing will be held on June 9, 2009 at 7:30 p.m. if the Council approves the attached resolution.

Zoning Text Amendment No. 09-03 would amend the Zoning Ordinance to:

- 1) allow the Department of Permitting Services (DPS) to immediately issue a citation to a person violating home occupation provisions;
- 2) require DPS to conduct on-site inspections before approving home occupations;
- 3) require use and occupancy certificates for certain dwellings;
- 4) require a person conducting a home occupation to prove their home address;
- 5) clarify the number of allowable trips to a home occupation;
- 6) define heavy and light commercial vehicles and prohibit off-street parking of heavy commercial vehicles on residentially zoned property;
- 7) limit the amount of parking on the front yard of a residential parcel; and
- 8) make the text of the Zoning Ordinance more precise, concise, and decisive.

This packet contains

© page

ZTA 09-03
Resolution

1 – 32
33

Zoning Text Amendment No: 09-03
Concerning: Home Occupations and
Residential Off-Street Parking
Draft No. & Date: 1 – 5/1/09
Introduced:
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**

By: The District Council at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provisions and definitions concerning home occupations;
- amend the provisions for violations;
- amend the definition of a commercial vehicle;
- add a definition of a light commercial vehicle;
- add definitions associated with off-street parking and home occupations;
- require a use-and-occupancy permit for a one-family detached dwelling;
- limit the amount of surfaced area in front yards for certain one-family zones;
- limit parking in front yards to surfaced area;
- limit off-street parking in clustered agricultural zones;
- amend the provisions for renewing a special exception for a home occupation; and
- generally amend the provisions related to home occupations, off-street parking, and violations of the Zoning Ordinance.

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

DIVISION 59-A-1	“PURPOSE AND APPLICABILITY”
Section 59-A-1.3	“Violations, penalties, and enforcement”
DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1.	“Definitions”
DIVISION 59-A-3	“BUILDING, USE AND OCCUPANCY PERMITS REGISTRATION OF CERTAIN USES.”
Section 59-A-3.2.	“Use-and-occupancy permit”
Section 59-A-3.4.	“Registration of a home occupation or home health practitioner's office”

DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.1	“A no-impact home occupation, registered home occupation, or home health practitioner's office”
DIVISION 59-C-1	“RESIDENTIAL ZONES- ONE-FAMILY”
Section 59-C-1.31	“Land uses”
DIVISION 59-C-9	“AGRICULTURAL ZONES”
Section 59-C-9.3	“Land uses”
DIVISION 59-F-2	“DEFINITIONS”
DIVISION 59-G-2	“SPECIAL EXCEPTIONS-STANDARDS AND REQUIREMENTS”
Section 59-G-2.29	“Home occupation, major”

<p>EXPLANATION:</p>	<p><i>Boldface indicates a heading or defined term.</i></p> <p><i><u>Underlining</u> indicates text that is added to existing laws by the original text amendment.</i></p> <p><i>[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.</i></p> <p><i><u>Double underlining</u> indicates text that is added to the text amendment by amendment.</i></p> <p><i>[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.</i></p> <p><i>* * * indicates existing law unaffected by the text amendment.</i></p>
----------------------------	---

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-A-1 is amended as follows:**

2 **DIVISION 59-A-1. PURPOSE AND APPLICABILITY**

3 * * *

4 **Sec. 59-A-1.3. Violations, penalties, and enforcement.**

5 (a) Any violation of this Chapter may be punished as provided in State law.

6 (b) In addition to all other remedies provided by law, any violation of this
7 Chapter may[, as an alternative,] be punished [by] as a [civil fine not
8 exceeding \$500 for each offense or any lesser penalty allowed by regulation
9 adopted under method 2] class A violation under Section 1-19. Each day a
10 violation continues is a separate offense.

11 * * *

12 **Sec. 2. DIVISION 59-A-2 is amended as follows:**

13 **Division 59-A-2. DEFINITIONS AND INTERPRETATION.**

14 **Sec. 59-A-2.1. Definitions.**

15 * * *

16 **Automobile parking facility:** Any lot or structure used for off-street parking of 6
17 or more motor vehicles, where service or repair facilities are not permitted. A
18 parking facility must not be used for storage of dismantled or wrecked motor
19 vehicles, parts thereof, or junk. An automobile sales lot is not a parking facility for
20 the purposes of this [chapter] Chapter. This definition includes 6 or more parking
21 spaces serving a special exception use. (See [section] Section 59-E-2.[92]83 for
22 special requirements applying to a smaller parking area serving a special exception
23 use in a one-family residential zone.)

24 * * *

25 **Commercial vehicle, heavy:** [A duly licensed and registered vehicle used to
26 transport passengers or property to further a commercial enterprise. A commercial

27 vehicle must not be used as an office nor have customer entry for a retail
28 transaction. For the purposes of this Chapter the following are also commercial
29 vehicles] Any motor vehicle, tandem axle trailer, or semi-trailer used for carrying
30 freight or merchandise, or used in the furtherance of any commercial enterprise
31 that is:

32 (a) [vehicles of more] greater than 10,000 pounds gross vehicle weight;

33 (b) [vehicles with a manufacturers] rated by the manufacturer with a load
34 capacity of [more than 3/4] more than one ton;

35 [(c) vehicles registered as commercial vehicles by the Motor Vehicle
36 Administration of the state of Maryland or other jurisdiction;

37 (d) "for hire" vehicles as classified by the Maryland Motor Vehicle
38 Administration;

39 (e) a funeral motor vehicle or ambulance as classified by the Maryland Motor
40 Vehicle Administration; or

41 (f) a freight trailer or semitrailer as defined by the Maryland Motor Vehicle
42 Administration;]

43 (c) 21 feet long or longer, measured from the extremes of the vehicle, including
44 any object on the vehicle; or

45 (d) more than 8 feet high, with properly inflated tires, measured from the ground
46 to the highest part of the vehicle, including any racks but excluding any
47 antennas.

48 A recreational vehicle, a motor vehicle owned by the County or other government
49 agency, or a [farm] machine or [farm] vehicle for agricultural use is not a heavy
50 commercial vehicle.

51 **Commercial vehicle, light:** Any motor vehicle or trailer used for carrying freight
52 or merchandise, or used in the furtherance of any commercial enterprise that is not
53 a heavy commercial vehicle. A light commercial vehicle must not be used as an

54 office or have any entry for transactions. A recreational vehicle, a motor vehicle
55 owned by the County or other government agency, or a machine or a vehicle for
56 agricultural use is not a light commercial vehicle.

57 * * *

58 **Home address, proof of:** Any valid document showing where a person lives as
59 established by regulations under method 2 of Section 2A-15.

60 * * *

61 **Home health practitioner's office:** The office of a health practitioner who resides
62 in the dwelling unit in which the office is located. For this purpose, a health
63 practitioner is defined as a person who is licensed or certified by a Board under the
64 Maryland Department of Health and Mental Hygiene and has an advanced degree
65 in the field from an accredited educational institution, except that this definition
66 excludes an electrologist, mortician, nursing home administrator, pharmacist, or
67 veterinarian. This definition includes a registered nurse or physician's assistant
68 only if that person has an advanced degree in the field and practices independently.
69 A home health practitioner's office that does not qualify for registration [in
70 accordance with] under Sections 59-A-3.4 and 59-A-6.1(a) and (d) may obtain a
71 special exception as a major home occupation, [in accordance with] under Section
72 59-G-2.29.

73 **Home occupation:** Any occupation, other than a registered home health
74 practitioner's office, that provides a service or product and is conducted within a
75 dwelling unit by a resident or residents of the dwelling unit without diminishing its
76 residential character.

77

78 A home occupation has the following characteristics:

- 79 (a) It is clearly subordinate to the use of the dwelling unit for residential
80 purposes and requires no external modifications that detract from the
81 residential appearance of the dwelling unit.
- 82 (b) It is conducted entirely within the dwelling unit or any existing accessory
83 building, as defined in this section, and does not use any open yard area of
84 the lot or parcel on which the dwelling unit is located or any building
85 constructed on the lot or parcel specifically for the purpose of operating the
86 home occupation, except for loading and unloading tools and equipment
87 associated with a lawn maintenance service from not more than two single
88 axle trailers or trucks (all storage and maintenance of these tools and
89 equipment, however, must be within the dwelling unit or any existing
90 accessory structure). It may, however, involve off-site activities such as
91 sales, client contact, and other matters related to the home occupation.
- 92 (c) It uses no equipment or process that creates noise, vibration, glare, fumes,
93 odors, or electrical or electronic interference detectable at or beyond the lot
94 line. It does not involve use, storage, or disposal of:
- 95 (1) A quantity of a petroleum product sufficient to require a special
96 license or permit from the fire marshal; or
- 97 (2) Any material defined as hazardous or required to have a special
98 handling license by the Montgomery County Code, as amended, or the
99 Annotated Code of Maryland, as amended, except that [disposal of]
100 medical waste must be [regulated as provided in] disposed of under
101 Maryland State Laws and Regulations.

102 A home occupation includes, but is not limited to, the office of a member of a
103 recognized profession, such as a lawyer, accountant, architect, engineer, or
104 veterinarian who resides in the dwelling unit in which the office is located. A home
105 occupation does not include the following: bed-and-breakfast establishment,

106 boardinghouse, day care facility, display of furniture not made in the home for sale
107 in the home or at an offsite location, landscape contractor, private educational
108 institution, tourist home, or the repair and maintenance of motor vehicles.

109 * * *

110 **Home occupation, eligible area:** The total number of square feet of floor area in
111 any building on a property, including the area of a basement and any accessory
112 building on the same lot but excluding the area of any cellar, uncovered steps and
113 uncovered porches. All horizontal measurements must be made between interior
114 faces of walls. Eligible area excludes any addition to any building and accessory
115 building that was constructed within 18 months of the date the Department
116 approved a home occupation on the lot.

117 * * *

118 **Home occupation, major:** A home occupation[, as defined above, that is]
119 regulated [in accordance with] under the special exception provisions of Section
120 59-G-2.29; it may include a home health practitioner's office whenever that office
121 does not qualify for registration [in accordance with] under Sections 59-A-3.4 and
122 59-A-6.1.

123 **Home occupation, no impact:** A home occupation[, as defined above, that is]
124 regulated [in accordance with] under the applicable requirements and standards of
125 59-A-6.1(a) and (b) and is not required to register.

126 **Home occupation, registered:** A home occupation[, as defined above, that is]
127 accessory to the residential use of the dwelling unit in which it occurs and is
128 registered [in accordance with] under Sections 59-A-3.4 and 59-A-6.1(a) and (c).

129 **Home occupation residential parking area:** Any [portion] surfaced area of a lot
130 or parcel in an R-60 or R-90 zone on which [is conducted] a registered home
131 occupation[:

132 (1) where the natural surface has been altered by gravel, stone, brick,
133 concrete, asphalt, mulch, or any other material that facilitates the
134 parking of a motor vehicle; and]

135 [(2) which is readily accessible for the parking of a motor vehicle] is
136 conducted. A fully enclosed garage, or a carport is not a home
137 occupation residential parking area.

138 * * *

139 **Home occupation, visit:** Any trip to the home occupation site for any purpose
140 related to the home occupation.

141 * * *

142 **Surfaced area:** Land where the natural surface has been altered by gravel, stone,
143 brick, concrete, asphalt, or any other material that facilitates the parking of a motor
144 vehicle.

145 * * *

146 **Sec. 2. DIVISION 59-A-3 is amended as follows:**

147 **Division 59-A-3. BUILDING, USE AND OCCUPANCY PERMITS**
148 **REGISTRATION OF CERTAIN USES .**

149 * * *

150 **Sec. 59-A-3.2. Use-and-occupancy permit.**

151 **59-A-3.21. Generally.**

152 A use-and-occupancy permit certifying compliance with this Chapter must be
153 issued by the Director before any building, structure, or land can be used or can be
154 converted, wholly or in part, from one use to another. However, a use-and-
155 occupancy permit is not required for:

156 (a) [A building used exclusively as a one-family, detached dwelling or for uses
157 incidental to the residential use. A registered home occupation or a no-
158 impact home occupation is deemed to be incidental to the residential use. A

159 registered home health practitioner's office is not incidental; it requires a
160 use-and-occupancy permit unless it is subject to the exemption provisions of
161 Section 59-A-6.1(d)(9). The use-and-occupancy permit cannot be issued
162 unless the practitioner has signed the Affidavit of Compliance required by
163 Section 59-A-3.42.]

164 [(b)] Land or buildings used exclusively for agricultural purposes.

165 [(c)] (b) A use for which a valid occupancy permit was issued and not revoked
166 [immediately prior to] before June 1, 1958.

167 [(d)] (c) A child day care facility for up to 8 children.

168 [(e)] (d) A transitory use.

169 * * *

170 **Sec. 59-A-3.4. Registration of a home occupation or home health practitioner's**
171 **office.**

172 **59-A-3.41. Requirement.**

173 Any home occupation (except a no-impact home occupation), or home health
174 practitioner's office[, as defined in Section 59-A-2.1,] that [complies with] satisfies
175 Section 59-A-6.1 and is not required to have a special exception must be registered
176 with the Department. [At the time of registration, the] An application for
177 registration must be submitted to the Department. The Department must give the
178 registrant a copy of the applicable regulations [as stated in] under Section 59-A-6.1
179 when the applicant submits the application. [An application must be submitted to
180 the Department, which] The Department must maintain the Home Occupation and
181 Health Practitioner Registry and issue a Certificate of Registration if the use
182 [complies with] satisfies Section 59-A-6.1.

183 **59-A-3.42. Application.**

184 The application must include an Affidavit of Compliance with those regulations,
185 which the applicant must sign. It must also provide the following information:

- 186 (a) Manner in which the operation of the home occupation [complies with]
187 satisfies Section 59-A-6.1;
- 188 (b) Location of the property by street address and either lot and block number or
189 liber and folio;
- 190 (c) Zone in which the property is located;
- 191 (d) Area of the lot or parcel, in square feet or acres;
- 192 (e) Total floor area of the dwelling unit and the amount of floor area to be
193 [utilized] used for the home occupation; floor area of any existing accessory
194 building to be [utilized] used for the home occupation;
- 195 (f) Location and number of off-street parking spaces;
- 196 (g) [Evidence that the applicant resides in the home for a period of at least 220
197 days in each calendar year] Proof of home address; and
- 198 (h) Other pertinent information required by the Department.
- 199 (i) For a home health practitioner's office only, evidence that the practitioner is
200 exempt from the provision of Section 59-A-6.1(d)(9) if applicable. If the
201 practitioner is not exempt, a copy of the use-and-occupancy permit required
202 by Section 59-A-3.21(a) must accompany the application, and the
203 practitioner must describe the location of [an] any indoor waiting room for
204 patients.

205 **59-A-3.43. Compliance and Enforcement.**

- 206 (a) By signature of the Affidavit of Compliance, the applicant for a registered
207 home occupation or home health practitioner's office affirms that he or she
208 resides in the dwelling unit in question and agrees to [comply with] satisfy
209 Section 59-A-6.1 of this Chapter and to take whatever action is required by
210 the Department to bring the home occupation or practitioner's office into
211 compliance, if complaints of noncompliance are received and verified.

- 212 (b) [When the application for the registered home occupation is completed and
213 the affidavit is signed, the Department must determine whether the home
214 occupation or practitioner's office, as described in the application, complies
215 with the applicable sections of this Chapter. If it does comply, the] The
216 Department must record [it] the home occupation in the Home Occupation
217 and Health Practitioner Registry and issue a Certificate of Registration if the
218 Department determines that the application satisfies the applicable sections
219 of this Chapter. A registered home occupation may begin operation
220 [without] after an approved on-site inspection. The home occupation or
221 practitioner's office must [not] be recorded in the Registry, and the
222 Certificate must [not] be issued only if the home occupation or practitioner's
223 office, as described, [does not comply fully with] satisfies Section 59-A-6.1.
- 224 (c) The Home Occupation and Health Practitioner Registry must be readily
225 available for public inspection. If the Department receives [written notice of
226 a violation of] a complaint about a registered home occupation or home
227 health practitioner's office, an inspector must inspect the property and
228 determine, within 90 days after receipt of the complaint, whether there is a
229 violation of the provisions of this [section] Section or Section 59-A-6.1. [If
230 the Department determines that there is no violation, the operator of the
231 home occupation or home health practitioner's office and the complainant
232 must be so notified in writing.]
- 233 (d) If the Department determines [at any time] that there is a violation, a
234 warning [must] may be issued, and the violation must be corrected within 30
235 days. [If it is not corrected, the Department must notify the operator of the
236 home occupation or home health practitioner's office that either:]
- 237 [(1) The home occupation or home health practitioner's office must cease
238 immediately; or

239 (2)] In the case of any violation that might be remedied with a special
240 exception, a petition must be filed within [10] 60 business days for a
241 special exception for a major home occupation [in accordance with]
242 under Section 59-G-2.29. Operation of the registered home occupation
243 or home health practitioner's office may continue until the Board has
244 acted on the petition, provided the violation is corrected [during this
245 period. The] before the application for a special exception is filed. If
246 the Board denies the special exception, the home occupation or home
247 health practitioner's office must cease immediately [if the Board
248 denies the special exception] or operate under the provisions for a
249 registered home occupation or home health practitioner's office.

250 (e) [Violation of an order issued by the Department is subject to a penalty in
251 accordance with Section 59-A-1.3 of this Chapter. The determination by the
252 Department as to whether there is a violation may be appealed to the Board,
253 in accordance with Section 59-A-4.11.] The Department may issue a citation
254 under Section 59-A-1.3 at any time, including after the issuance of a
255 warning under subsection (d), even if time remains for remedial action to be
256 taken.

257 * * *

258 **Sec. 3. DIVISION 59-A-6 is amended as follows:**

259 **Division 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**
260 **ZONE.**

261 **Sec. 59-A-6.1. A no-impact home occupation, registered home occupation, or**
262 **home health practitioner's office.**

263 (a) The following provisions apply to a no-impact home occupation, a registered
264 home occupation, and to a home health practitioner's office:

- 265 (1) Each home occupation operator or home health practitioner must
266 [reside in the home for a period of at least 220 days in each calendar
267 year] show proof of home address.
- 268 [(2) Each home occupation or home health practitioner must maintain a
269 log of all visits made to the home in connection with the use; this log
270 must be available to the Department on request.]
- 271 [(3)](2) The amount of floor area used for the home occupation or home
272 health practitioner's office must not exceed 33 percent of the [total
273 floor] eligible area of [the dwelling unit and] any existing [accessory]
274 building on the same lot or parcel. [Any enlargement of the total floor
275 area resulting from construction completed on or after the date of
276 commencement of the home occupation or within the 18 months
277 immediately preceding commencement of the home occupation must
278 be excluded from the total floor area on which this calculation is
279 based.]
- 280 [(4)](3) [No] Any equipment or process that creates a nuisance [such as
281 noise, vibration, glare, fumes, odors, or electrical or electronic
282 interference detectable at or beyond the lot line of a detached dwelling
283 unit or the floor, ceiling or party wall of an attached dwelling unit is]
284 or violates any law is not allowed in connection with the operation of
285 a home occupation or home health practitioner's office, nor is this
286 operation allowed to involve use, storage, or disposal of:
- 287 (A) A quantity of a petroleum product sufficient to require a special
288 license or permit from the fire marshal; or
- 289 (B) Any material defined as hazardous or required to have a special
290 handling license by the Montgomery County Code, as
291 amended, or the Annotated Code of Maryland, as amended,

292 except that disposal of medical waste must be regulated [as
293 provided in] by Maryland State Laws and Regulations.

294 [(5)](4) [No truck] Truck deliveries are not permitted, except for parcels
295 delivered by public or private parcel services that customarily make
296 residential deliveries.

297 [(6)](5) A home occupation or home health practitioner's office found to
298 be in violation of any provision of Section 59-A-6.1 is subject to the
299 enforcement procedures [stated in] under Section 59-A-3.43(c), (d),
300 and (e).

301 (b) A no-impact home occupation must comply with the following standards:

302 (1) It must be conducted by a member or members of the family[, as
303 defined in Section 59-A-2.1,] residing in the dwelling unit. No non-
304 resident employees are permitted.

305 (2) A maximum of 5 visits per week, including deliveries, is allowed in
306 connection with no-impact home occupations on one lot or parcel.
307 [For the purposes of this section, a “visit” is defined as a visit to the
308 home by one automobile transporting one or more clients or
309 customers.]

310 (3) [No] The sale of goods on the premises is not allowed.

311 (4) Display or storage of goods is limited to samples of merchandise that
312 may be ordered by customers to whom it will be delivered at off-site
313 locations, or merchandise awaiting such delivery, but [in no event
314 must] the storage of merchandise awaiting delivery must not exceed
315 30 square feet of floor area.

316 (5) [No equipment] Equipment or facilities may not be used other than:

317 (A) Domestic or household equipment;

- 318 (B) Office equipment[, such as a typewriter, word processor,
319 calculator or computer]; or
- 320 (C) [Art or handicraft equipment, such as a hand loom, spinning
321 wheel, potter's wheel, kiln, and woodworking tools, or wine-
322 making and beer-making equipment.] Any equipment
323 reasonably necessary for art production, handicrafts, or making
324 beer or wine.
- 325 (6) If an accessory building is used for any part of the no-impact home
326 occupation, there must be no external evidence of such use. [No more
327 than] Only one accessory building may be used for this purpose. A
328 new accessory building must not be constructed for the purpose of
329 conducting the home occupation. For the purpose of this section an
330 accessory building must [have existed for at least 18 months prior to
331 the onset of the business activity in order to be used as a part of the
332 home occupation] be an eligible area.
- 333 (7) In the residential one-family zones regulated by Section 59-C-1.3 and
334 in recorded residential subdivisions in the agricultural zones regulated
335 by Division 59-C-9, any commercial vehicle that is parked or garaged
336 on-site in connection with the no-impact home occupation must
337 [comply with] satisfy the regulations for commercial vehicles in
338 Section 59-C-1.31[, titled "Land Uses."]. In townhouse and multiple
339 family dwellings in zones other than residential one-family or
340 agricultural, one light commercial vehicle may be parked on-site in
341 connection with this use, if parked in a garage.
- 342 (8) The display of a sign must [comply with the requirements established
343 in] satisfy Article 59-F of this [chapter] Chapter.

344 (9) A no-impact home occupation must have no discernible impact on the
345 surrounding neighborhood and must be accessory to the residential
346 use of the dwelling unit in which it occurs.

347 (10) In the R-60 and R-90 zones[:

348 (A) Not], not more than [one] two motor [vehicle] vehicles [of a
349 patron, client, or any other non-resident using,] visiting[, or
350 associated with] a no-impact home occupation may be parked at
351 the same time on a lot or parcel where a home occupation is
352 conducted.

353 (c) A registered home occupation in a residential or agricultural zone, as
354 [provided by] allowed under Section 59-C-1.31, 59-C-1.71, 59-C-2.3 or 59-
355 C-9.3, must [comply with] satisfy the following standards:

356 (1) A maximum of 2 registered home occupations is allowed in any one
357 dwelling unit.

358 (2) It must be conducted by a member or members of the family[, as
359 defined in Section 59-A-2.1,] residing in the dwelling unit, and may
360 employ no more than one nonresident assistant or business associate
361 [who is required to be at the dwelling unit for any length of time
362 during the 24-hour day]. For the purposes of this section, no more
363 than one employee may visit the dwelling unit within any 24 hour
364 period. The arrival and departure of the nonresident assistant or
365 associate are not included in (3) below.

366 (3) A maximum of 20 visits per week, and no more than 5 per day,
367 excluding deliveries, is allowed in connection with one or both
368 registered home occupations on one lot or parcel. [For the purposes of
369 this section, a "visit" is defined as a visit to the home by one
370 automobile transporting one or more clients or customers. Visits by]

371 Trips to the home occupation by employees or business associates for
372 the purpose of picking up paychecks or work orders, or collecting
373 equipment or merchandise for use, sale, or delivery at off-site
374 locations are not permitted.

- 375 (4) The sale of goods on the premises is limited to:
- 376 (A) Handicrafts or art products or similar hand-made products or
377 services such as dressmaking, hand-weaving, block-printing,
378 jewelry, pottery, and musical instruments, which are produced
379 on site by a resident of the dwelling; or
- 380 (B) [Up to 5 visits per month that involve the] The sale of items
381 customarily ordered on the premises of the registered home
382 occupation for delivery at a later date, to customers at other
383 locations. However, the delivery of the goods to the customer
384 must occur off-site.

- 385 (5) Display or storage of goods is prohibited except for:
- 386 (A) Such handmade items as enumerated in paragraph (4)(A)
387 above; or
- 388 (B) Samples of merchandise that may be ordered by customers to
389 whom it will be delivered at off-site locations, or merchandise
390 awaiting such delivery.

391 The storage of equipment or merchandise for collection by employees
392 who will use or deliver it at off-site locations is prohibited.

- 393 (6) [No equipment or facilities may be used other than] Only the
394 following equipment or facilities may be used:
- 395 (A) Domestic, household, or lawn maintenance service equipment;
- 396 (B) Office equipment[, such as but not limited to a typewriter, word
397 processor, calculator or computer]; or

398 (C) [Art or handicraft equipment, such as but not limited to a hand
399 loom, spinning wheel, potter's wheel, kiln or woodworking
400 tools.] Any equipment reasonably necessary for art production,
401 handicrafts, or making wine or beer.

402 (7) If an existing accessory building is used for any part of the registered
403 home occupation, there must be no external evidence of such use. [No
404 more than] Only one existing accessory building may be used for this
405 purpose. [A new] An accessory building must [not be constructed for
406 the purpose of conducting the registered home occupation. For the
407 purpose of this section an accessory building must have existed for at
408 least 18 months prior to the onset of the business activity in order to
409 be used as part of the home occupation] be an eligible area.

410 (8) A registered home occupation must not require construction of any
411 off-street parking area other than that required by the residential use,
412 except that any lot, including one recorded [prior to] before June 1,
413 1958, with less than the minimum area required by the zone, must
414 have 2 off-street parking spaces. [Newly constructed spaces must be
415 located in the side or rear yard.] If there is a common parking area
416 serving more than one dwelling unit, as in the case of multiple-family
417 or other attached dwelling units, parking in connection with the
418 registered home occupation must not encroach on parking serving
419 neighboring dwelling units.

420 (9) In the R-60 and R-90 zones:

421 (A) Not more than two motor vehicles [of any non-resident
422 employee, patron, client, or any other non-resident person
423 associated with] of anyone visiting a registered home

424 occupation may be parked at the same time on a lot or parcel
425 where a registered home occupation is conducted.

426 (B) A registered home occupation must have a [home occupation]
427 residential parking area on the lot or parcel on which the
428 registered home occupation is conducted that is no greater than
429 that which will accommodate two parked motor vehicles, each
430 with a maximum dimension of 8.5' x 18', except that the
431 following driveways are deemed to accommodate two parked
432 motor vehicles regardless of the size of the driveways:

433 (i) a driveway 12 feet or less in width that provides direct
434 access for a motor vehicle to a public or private right-of-
435 way, to a garage, carport, or a home occupation
436 residential parking area for one car; or[,]

437 (ii) a driveway 20 feet or less in width that provides direct
438 access for a motor vehicle to a garage, carport, or home
439 occupation residential parking area for more than one car.

440 (C) Before a Certificate of Registration may be issued, the operator
441 of the home occupation must submit evidence acceptable to the
442 Department that the drainage of the home occupation residential
443 parking area will not damage any nearby property or public
444 street.

445 (D) [No] A home occupation residential parking area, regardless of
446 when created, may not be established, maintained, or used for
447 parking of any motor vehicle on a parcel or lot on which a
448 registered home occupation is conducted [pursuant to] under a
449 registration certificate issued after November 18, 2002, except
450 [in accordance with] under the requirements of this section.

451 (E) For a registered home occupation [for which] with a registration
452 certificate [had been] issued before November 18, 2002, a home
453 occupation residential parking area [that accommodates] for
454 more than two parked motor vehicles may continue to be used
455 and maintained, [provided that] if such area has been used for
456 parking for a registered home occupation for not less than three
457 years [prior to] before November 18, 2002.

458 (F) [A registered home occupation for which a registration
459 certificate was issued before November 18, 2002, must bring all
460 home occupation residential parking areas into compliance with
461 the requirements of this section, if any home occupation
462 residential parking area is constructed or increased for use by
463 the registered home occupation after November 18, 2002.]

464 [(G)] Except for a driveway covered in subparagraph (B)(i) or (ii), or
465 as otherwise provided in this section, each home occupation
466 residential parking area must be set back from a lot line no less
467 than:

	R-90	R-60
(1) Front ¹	30 feet	25 feet
(2) Side ²	16 feet	16 feet
(3) Rear ³	25 feet	20 feet

473
474 ¹ The setback may be reduced up to 50 percent if a four-
475 foot high solid wood fence, masonry wall, berm,
476 evergreen landscaping six feet high [at a time of planting]
477 when planted, or a combination, effectively screens from
478 view from the ground of adjoining or confronting

479 property, vehicles parked in the home occupation
480 residential parking area.

481 ² The setback may be reduced up to 50 percent if a six-
482 foot high solid wood fence, masonry wall, berm,
483 evergreen landscaping six feet high [at time of planting]
484 when planted, or a combination, effectively screens from
485 view from adjoining or confronting property, vehicles
486 parked in the home occupation residential parking area.

487 ³ For a corner lot, the side yard adjoining a public right-
488 of-way [shall] must be considered as a front yard, and the
489 front yard setbacks apply.

490 (10) In the Residential One-Family Zones regulated by Section 59-C-1.3
491 and in recorded residential subdivisions in the Agricultural Zones
492 regulated by Division 59-C-9, any light commercial vehicle that is
493 parked or garaged on-site in connection with the registered home
494 occupation must [comply with] satisfy the regulations for light
495 commercial vehicles in Section 59-C-1.31[, title "Land Uses."]. In the
496 Townhouse and Multiple-Family Zones regulated by Sections 59-C-
497 1.7 and 59-C-2.3, respectively, one light commercial vehicle may be
498 parked on-site in connection with this use if parked in a garage.

499 (11) The display of a sign must [comply with the requirements established
500 in] satisfy Article 59-F of this [chapter] Chapter.

501 (d) A home health practitioner's office, in those agricultural or residential zones
502 where it is allowed as a registered use [in accordance with] under Section
503 59-C-1.31, 59-C-2.3, or 59-C-9.3, must [comply with] satisfy the following
504 requirements, except as provided in Paragraph (d)(9), below:

- 505 (1) A use-and-occupancy permit is required[, in accordance with] under
506 Section 59-A-3.2.
- 507 (2) No more than 2 resident health practitioners are allowed; [no] a
508 nonresident health practitioner is not allowed, but nonresident support
509 staff is allowed. A nurse or physician's assistant under the supervision
510 of the resident health practitioner is deemed to be support staff.
- 511 (3) The home health practitioner(s) may be allowed to treat more than one
512 patient or client at a time, provided that this does not result in more
513 than 5 vehicle trips containing not more than 10 patients arriving or
514 departing at the same appointment time.
- 515 (4) Clients, patients, or other visitors must visit by appointment only and
516 must be informed of the correct address and parking location.
517 Emergency patients may visit without appointment; abuse of this
518 exemption may lead to revocation of the Certificate of Registration.
- 519 (5) An indoor waiting room is required if more than one patient or client
520 will be on the premises at the same time.
- 521 (6) The sale of goods on the premises is prohibited, except for medication
522 prescribed by the health practitioner or a prescribed remedial device
523 that cannot be obtained from a commercial source.
- 524 (7) Off-street parking must be provided [in accordance with] under the
525 requirement for a medical practitioner's office, as stated in Section 59-
526 E-3.7. If the lot is in any one-family zone regulated by Section 59-C-
527 1.3, the parking must be screened; the screening must be equivalent to
528 that required by Section 59-E-2.92, and newly constructed parking
529 must be located at the side or rear yard. If there is a common parking
530 area serving more than one dwelling unit, as in the case of multiple-
531 family dwelling units, parking in connection with the home health

532 practitioner's office must not encroach on parking serving neighboring
533 dwelling units.

534 (8) The display of a sign must [comply with the requirements established
535 in] satisfy Article 59-F of this [chapter] Chapter.

536 (9) A home health practitioner who was in practice at the registered
537 location [prior to] before February 5, 1990[,] is exempt from the
538 requirements to:

539 (A) Obtain a use-and-occupancy permit, [as specified by] under
540 Paragraph (1) above;

541 (B) Provide an indoor waiting room, [as specified by] under
542 Paragraph (5) above;

543 (C) [Comply with] Satisfy the off-street parking provisions of
544 Paragraph (7), above; and

545 These exemptions do not apply to any home health practitioner who begins
546 to practice at the registered location on or after February 5, 1990, nor do
547 they apply if the practitioner moves to another location. No other
548 exemptions from the requirements of this Section 59-A-6.1 apply to any
549 home health practitioner.

550 * * *

551 **Sec. 4. DIVISION 59-C-1 is amended as follows:**

552 DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY

553 * * *

554 **Sec. 59-C-1.3 Standard Development**

555 The procedure for approval is specified in Chapter 50.

556 **59-C-1.31. Land uses.**

557 No use is allowed except as indicated in the following table:

558 - **Permitted Uses.** Uses designated by the letter "P" are permitted on any lot
 559 in the zones indicated, subject to all applicable regulations.
 560 - **Special Exception Uses.** Uses designated by the letters "SE" may be
 561 authorized as special exceptions, [in accordance with the provisions of]
 562 under Article 59-G.
 563

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
* * *										
(b) Transportation, communication and utilities.										
Airstrips, in the common open space.		P								
Amateur radio facility.	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE	P ⁵¹ /SE
Cable communications system.	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹	SE ⁹
Electric power transmission and distribution lines, overhead, carrying 69,000 volts or less.	P		P	P	P	P	P	P	P	P
Electric power transmission and distribution lines, underground.	P	P	P	P	P	P	P	P	P	P
Helistop. ⁴⁶										
Parking of automobiles, off-street, in connection with commercial uses.	P ³⁹	P ³⁹	P ³⁹	P ³⁹ , 43	[42]	[42]	SE	SE		SE

Parking of motor vehicles, other than heavy commercial vehicles, off-street, in connection with any use permitted in the zone. <u>Vehicles and machinery for agricultural use may be parked without restrictions.</u>	P ^{11,13}	P ¹¹	P ¹¹	P ^{12,13}	P ¹²	P [¹²]*					
Pipelines, aboveground.	SE		SE	SE	SE	SE	SE	SE	SE	SE	SE
Pipelines, underground.	P	P	P	P	P	P	P	P	P	P	P

564 * * *

565 ¹¹ [Including farm vehicles and farm machinery for agricultural use.] Not more
566 than 3 light commercial vehicles and not more than one unoccupied recreation
567 vehicle may be parked on any lot at any one time. One additional recreation
568 vehicle may be used on a lot for dwelling purposes for not more than 3 days in any
569 month. A tow truck is not permitted to park with a [disabled car] vehicle attached.
570 The provision for parking motor vehicles off- street in connection with any use
571 permitted in the RE-1 zone does not apply to a lot reclassified from the R- 200 to
572 the RE-1 zone that does not meet the minimum lot size requirement of the RE-1
573 zone. A lot reclassified from the R-200 to the RE-1 zone that does not meet the
574 minimum lot size requirement of the RE-1 zone is subject to the motor vehicle off-
575 street parking provision in effect for the lot before the lot was reclassified from the
576 R-200 to the RE-1 zone. To provide for a reasonable period of amortization, the
577 use of a lot reclassified from the R-200 to the RE-1 zone that does not conform to
578 this provision may continue to operate for one year following [(the effective date
579 of this ZTA) [May 22, 2006]] May 22, 2006. [On that date, the] After that date,

580 the use of the lot must [be brought into conformity with] satisfy this provision or
581 cease to operate.

582 ¹² [Including farm vehicles and farm machinery for agricultural use.] One light
583 commercial vehicle may be parked on any lot or parcel [provided the vehicle meets
584 all the following: (1) 10,000 pounds or less gross vehicle weight, (2) 19 feet or less
585 in length measured from the extremes of the vehicle or load, or (3) 8 feet or less in
586 height including racks needed for materials]. A tow truck is not permitted to park
587 with a [disabled car] vehicle attached. One recreation vehicle may be parked on a
588 lot or parcel; however, it must not be used for dwelling purposes for more than 3
589 days in any month. [Up to three commercial vehicles owned or operated by the
590 resident of the property may be parked on any lot or parcel in the RMH-200 zone,
591 provided: (1) the lot or parcel used to park commercial vehicles is at least one acre
592 in size; (2) the commercial vehicles are parked in the rear yard of the lot or parcel;
593 and (3) use of the lot or parcel to park commercial vehicles was established before
594 October 23, 2000.] Parking for any vehicle or trailer in a front yard must be on a
595 surfaced area; however, temporary parking for visitors, loading, unloading, or
596 cleaning vehicles or trailers is permitted on any area.

597 * * *

598 * Not more than three light commercial vehicles may be parked on any lot or
599 parcel in the RMH-200 zone at any time, provided: (1) the lot or parcel used to
600 park light commercial vehicles is at least one acre in size; (2) the light commercial
601 vehicles are parked in the rear yard of the lot or parcel; (3) use of the lot or parcel
602 to park light commercial vehicles was established before October 23, 2000 ; and
603 (4) the resident of the property is the owner or operator of the vehicles.

604 * * *

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
59-C-1.328. Coverage.										
-Maximum percentage of net lot area that may be covered by buildings, including accessory buildings:	25	25	15	25	25	30	35	40		25
-Maximum percentage of tract that may be covered by buildings:									35	
-Maximum percentage of tract to be devoted to green areas:									50	
- <u>In the zones indicated, the maximum percentage of the area of the front yard that can be covered by surfaced area, excluding the surfaced area in a driveway on a pipestem or flag shaped lot:</u>				<u>30*</u>	<u>30*</u>	<u>30*</u>	<u>35*</u>			

605 * * *

606 * a) Any surfaced area existing before {date of adoption} is not limited by
607 this provision if it is not increased in area;

608 b) Surfaced area may be a maximum of 50 percent of the front yard of a
 609 tract that has its primary access from a primary residential street,
 610 minor arterial road, major highway or arterial, or any State road;

611 c) Surfaced area consisting of 2 parking spaces no larger than 310 square
 612 feet in total area is not limited by this provision.

613 * * *

614 **Sec. 5. DIVISION 59-C-9 is amended as follows:**

615 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

616 * * *

617 **59-C-9.3 Land uses.**

618 * * *

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TD R
(f) Transportation, Communication and Utilities:							
Airstrip, associated with farm.		SE ²	SE	SE			
Amateur radio facility.	P ^{46/} SE						
Cable communication system. ¹⁰	SE	SE	SE	SE	SE	SE	SE
Electric power transmission and distribution line, overhead, carrying more than 69,000 volts.	SE	SE	SE	SE	SE	SE	SE
Electric power transmission and distribution line, overhead, carrying 69,000 volts or less.	P	P	P	P	P	P	P
Electric power transmission and distribution line, underground.	P	P	P	P	P	P	P
Helistop	SE	SE ^{2,11}	SE ^{2,11}	SE ¹¹			
Parking of motor vehicles, <u>other than heavy commercial vehicles,</u> off-street, in connection with any	P ₋	P ₋	P ₋	P ₋	P	P ₋	P ₋

use permitted. <u>Vehicles and machinery for agricultural use may be parked on any size lot without restrictions.</u> <u>A tow truck is not permitted to park with a vehicle attached on any size lot or parcel.</u>							
Parking of motor vehicles, off-street, in connection with commercial uses.	P ³⁹			P ³⁹			
* * *							

619

620 * On any lot or parcel smaller than 2 acres in size but larger than .5 acres, not more
621 than 3 light commercial vehicles and not more than one unoccupied recreational
622 vehicle may be parked at any one time. One additional recreational vehicle may be
623 used on a lot or a parcel for dwelling purposes for not more than 3 days in any
624 month. On any lot or parcel equal to or smaller than .5 acres in size, not more than
625 one light commercial vehicle and not more than one unoccupied recreational
626 vehicle may be parked at any time.

627 * * *

628 **Sec.6. DIVISION 59-F-2. DEFINITIONS**

629

630 **Sign, portable:** A sign installed on a support or structure that permits removal or
631 relocation of the sign by pulling, carrying, rolling, or driving, such as a sign with
632 wheels; a menu or sandwich board sign; an inflatable sign; an umbrella, but not a
633 canopy sign, may be a temporary sign or a limited duration sign, but not a
634 permanent sign. A sign attached or painted on a vehicle parked and visible from
635 the public right-of-way is also bound by this division unless it is a currently
636 licensed and registered vehicle used in the daily operation of the business. This

637 does not include a sign on [a] any light or heavy commercial vehicle as defined in
638 59-A-2.1. which is operated within the public right-of-way.

639

640 **Sec. 7. DIVISION 59-G-2. SPECIAL EXCEPTIONS-STANDARDS AND**
641 **REQUIREMENTS is amended as follows:**

642 * * *

643 **Section 59-G-2.29. Home occupation, major**

644 (k) In the Residential One-Family Zones regulated by Section 59-C-1.3 and in
645 recorded residential subdivisions in the Agricultural Zones regulated by Division
646 59-C-9, any commercial vehicle that is parked or garaged on-site in connection
647 with the home occupation must comply with the regulations for commercial
648 vehicles in section 59-C-1.31, title “Land Uses.” In the Townhouse and Multiple-
649 Family Zones regulated by Sections 59-C-1.7 and 59-C-2.3, respectively, one light
650 commercial vehicle may be parked on-site in connection with the home occupation
651 if parked in a garage.

652 * * *

653 (n) A special exception for a major home occupation is granted for a two-year
654 period and the special exception may be renewed if it is operated in compliance
655 with the findings and conditions of the Board in the initial grant and satisfies [the
656 compliance procedures specified by] Section 59-G-1.3.

657 (1) The Hearing Examiner must provide written notice 60 days before an
658 upcoming renewal date to each holder of a renewable special
659 exception, with instructions to submit a renewal application and
660 request an inspection by the Department of Permitting Services, if the
661 holder of the special exception wishes to renew for two more years.
662 The special exception continues in effect until:

- 663 (A) the Hearing Examiner has provided written notice of the
664 renewal date;
- 665 (B) renewal has been granted or denied, or the special exception
666 holder has declined to renew the special exception; or
- 667 (C) the holder of the special exception has failed to respond to the
668 notice of renewal before the special exception expires.
- 669 (2) If the special exception holder declines to renew, notice of the
670 consequent expiration of the special exception must be sent by regular
671 mail to the special exception holder, the property owner, and all other
672 persons entitled to notice.
- 673 (3) If the holder of the special exception does not reply to notification of
674 the renewal date within 30 days from the mailing of the notice, a
675 second notice shall be sent to the special exception holder and the
676 property owner by certified mail, stating the date on which the special
677 exception will expire if a renewal application is not received. If no
678 reply to the second notice is received, the Hearing Examiner must
679 issue an Order stating that the special exception has expired. The
680 Order must be sent to the special exception holder and the property
681 owner by certified mail and to all other persons entitled to notice of
682 the special exception, by regular mail.
- 683 (4) Upon receipt of an application for renewal, the Hearing Examiner
684 must issue notice of a public hearing. The Hearing Examiner must
685 conduct this public hearing at least 30 days after notice is sent to all
686 parties entitled to notice of the original special exception hearing. The
687 public hearing on the renewal may be waived by the Hearing
688 Examiner if the inspection of the premises indicates that the special
689 exception is in compliance with the applicable provisions of this

690 Chapter and conditions established by the Board of Appeals, and the
691 parties entitled to notice are given an opportunity to request a hearing
692 and fail to do so.

693 (5) If a special exception holder requests modification of the terms and
694 conditions of the special exception in conjunction with a renewal
695 request, the Hearing Examiner may make a decision on the requested
696 modification as part of the decision on the renewal, without a public
697 hearing, if in the Hearing Examiner's judgment:

698 (A) the modification does not substantially alter the nature,
699 character, intensity of use or the conditions of the original
700 grant; and

701 (B) the parties entitled to notice are given an opportunity to request
702 a hearing and fail to do so.

703 (6) If, in the Hearing Examiner's judgment, the requested modification
704 represents a significant change that would not substantially alter the
705 nature, character, intensity of use or the conditions of the original
706 grant, the Hearing Examiner may make a decision on the modification
707 and the renewal only after a public hearing convened with proper
708 notice .

709 * * *

710 **Sec. 8. Effective date.** This ordinance takes effect 180 days after the date
711 of Council adoption.

712

713 This is a correct copy of Council action.

714

715

716 _____
Linda M. Lauer, Clerk of the Council

Resolution No.: _____
Introduced: May 5, 2009
Adopted: _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS A DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND

By: District Council

Subject: Notice of Public Hearing on Zoning Text Amendment 09-03

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within 30 days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 09-03, introduced on May 5, 2009 would amend provisions concerning home occupations and off-street parking in residential and agricultural zones, and use and occupancy permits.
3. The County Executive requested the consideration of the Zoning Text Amendment in an April 2, 2009 memorandum.

Action

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 resolution:

Legal notice will be given of the public hearing to be held on June 9, 2009 at 7:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council