

Introduction

MEMORANDUM

October 2, 2009

TO: County Council

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

SUBJECT: Introduction – Zoning Text Amendment 09-09, Planning Board Enforcement

Zoning Text Amendment (ZTA) 09-09, sponsored by the District Council at the request of the Planning Board, is scheduled to be introduced on October 6, 2009. A public hearing will be held on November 17, 2009 at 7:30 p.m. if the Council approves the attached resolution.

This ZTA, in addition to Subdivision Regulation Amendment 09-03 and Bill 34-09, was recommended by the Planning Board to have a consistent set of procedures for zoning, subdivision, and forest conservation violations. The Planning Board's request for introduction of this ZTA is included in the packet for Bill 34-09.

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Zoning Text Amendment No: 09-09
Concerning: Planning Board Enforcement
Draft No. & Date: 2 – 9/18/09
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: District Council at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise provisions for violations, penalties, and enforcement of a Planning Board action; and
- generally amend the provisions related to 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-D-3 “SITE PLAN.”
Section 59-D-3.6 “Failure to comply”

EXPLANATION:

***Boldface** indicates a heading or defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the 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.*

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:

Sec. 1. DIVISION 59-A-1 is amended as follows:

DIVISION 59-A-1. PURPOSE AND APPLICABILITY

* * *

59-A-1.3. Violations, penalties, and enforcement.

* * *

(c) In addition to any other remedy provided by law, any violation of a Planning Board Action, as defined in Section 50-41, may be enforced under subsection (b) or under Section 50-41, at the discretion of the Planning Board.

~~(c)~~(d) The Planning Board may assign a hearing officer designated by the Planning Board, including a Hearing Examiner from the Office of Zoning and Administrative Hearings, to conduct a public hearing and submit a report and recommendation on any alleged violation of this Chapter or any other Planning Board Action as defined in Section 50-41. The hearing officer must submit the required report and recommendation to the Planning Board not later than 60 days after the hearing record closes, but the hearing officer may by order extend the time to file the report.

* * *

Sec. 2. DIVISION 59-D-3 is amended as follows:

DIVISION 59-D-3. SITE PLAN.

59-D-3.6. Failure to comply.

(a) If the Planning Board finds, on its own motion or after a complaint is filed with the Planning Board or the Department, and after giving due notice to the applicant, the complainant, and all parties previously before the Board on this plan and holding a public hearing or receiving a report of a public hearing held by a designated hearing officer, that any term, condition, or restriction in a certified site plan is not being complied with, the Planning Board may:

(1) impose a civil fine or administrative civil penalty authorized by Section 50-

28 41;

29 (2) suspend or revoke the site plan;

30 (3) approve a compliance program which would permit the applicant to take
31 corrective action to comply with the certified site plan;

32 (4) allow the applicant to propose modifications to the certified site plan[,] ; or

33 (5) take any combination of these actions.

34 (b) If, at the end of the effective period of any compliance program approved by the
35 Planning Board, the Planning Board or its designee finds that the applicant has not
36 taken sufficient corrective action, the Planning Board may, without holding further
37 hearings, revoke the site plan or take [another] other action necessary to ensure
38 compliance, including imposing civil fines, penalties, stop work orders, and
39 corrective orders under Section 50-41. The Planning Board may obtain
40 investigations and reports as to compliance from appropriate County or State
41 agencies.

42 * * *

43 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of Council
44 adoption

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46 This is a correct copy of Council action.

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49 _____
Linda M. Lauer, Clerk of the Council

Resolution No.: _____
Introduced: October 6, 2009
Adopted: _____

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: District Council

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

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. 09-09, introduced on October 6, 2009 would amend provisions concerning the Planning Board's enforcement of the Zoning Ordinance.
3. The Planning Board requested the consideration of the Zoning Text Amendment.

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 November 17, 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