

**Introduction**

**MEMORANDUM**

January 22, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 10-01, Workforce Housing - Voluntary

Zoning Text Amendment (ZTA) 10-01 is being sponsored by the Planning, Housing, and Economic Development Committee. The Committee believes that the Workforce Housing program should be changed to a voluntary program. ZTA 10-01 would accomplish that objective within the Zoning Ordinance. A bill to amend Chapter 25B would also be required. The bill is tentatively scheduled for introduction at the Council's next legislative session on February 2, 2010.

A public hearing on ZTA 10-01 will be scheduled for March 2, 2010 at 1:30 p.m., if the attached resolution is approved.

This Packet Contains  
ZTA 10-01  
Resolution

© number  
1 – 14  
15



Zoning Text Amendment No: 10-01  
Concerning: Workforce Housing -  
Voluntary  
Draft No. & Date: 1 – 1/21/10  
Introduced: 1/26/10  
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**

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By: Planning, Housing, and Economic Development Committee

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- defining the term “workforce housing unit”;
- requiring any residential development at or above a certain density, located in a metro station policy area, to include a certain percentage of workforce housing units; and
- generally providing standards for the development of workforce housing units.

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

DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.18	“Workforce Housing”
DIVISION 59-C-2	“RESIDENTIAL ZONES, MULTIPLE-FAMILY”
Section 59-C-2.4	“Development standards”
Section 59-C-2.418.	“Maximum Density of Development (Dwelling Units per Acre of Net Lot Area)”
Section 59-C-2.442	“General provisions”
DIVISION 59-C-4	“COMMERCIAL ZONES”
Section 59-C-4.357	“C-2 zone—purpose and development standards”
DIVISION 59-C-6	“CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.215	“Method of development and approval procedures”
Section 59-C-6.23	“Development standards”
DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.14	“Density of residential development”
DIVISION 59-C-8	“TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.4	“Development standards”
DIVISION 59-C-13	“TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)”
Section 59-C-13.215	“Methods of development and approval procedures”
DIVISION 59-C-14	“TRANSIT MIXED-USE (TMX) ZONE”
Section 59-C-14.213	“General Requirements”



Section 59-C-14.27 “Special regulations for use of a Building Lot Termination (BLT) Development Right”

DIVISION 59-D-1 “DEVELOPMENT PLAN”

Section 59-D-1.6 “Approval by district council”

**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 that text 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:*



**Sec. 1. DIVISION 59-A-6 is amended as follows:**

**DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.**

\* \* \*

**59-A-6.18. Workforce housing.**

**59-A-6.18.1. Generally.**

The workforce housing program complements the Moderately Priced Dwelling Unit [(MPDUs)] MPDU Program, the Productivity Housing Program, and other County programs designed to promote affordable housing. Under Chapter 25B, a developer [must] may build the number of workforce housing units [required] allowed in any zone under this Chapter. All workforce housing units must be constructed on the site that uses the FAR and building height flexibility under this Section.

**59-A-6.18.2. [Requirements] Allowances.**

(a) Any subdivision that would contain 35 or more market dwelling units, and that would be located in a zone with a maximum permitted residential density at or above 40 dwelling units per acre and in a Metro Station Policy Area, [must] may include [an amount] a number of workforce housing units that is not less than at least 10 percent of the total number of proposed market dwelling units, not including any MPDUs or resulting bonus density units, or dwelling units excluded under Chapter 25B.

(b) A site plan is required under Division 59-D-3 for any project that includes a workforce housing unit.

(c) To allow the construction of [all] workforce housing units on site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent of the total FAR or number of dwelling units;



29 (2) any residential density or residential FAR limit established in a master or  
30 sector plan to be exceeded to the extent required for the number of  
31 workforce housing units that are constructed, but not to more than the  
32 maximum density and FAR of the zone, except as provided in paragraph  
33 (1)[,] ; and

34 (3) any building height limit established in a master or sector plan to be  
35 exceeded to the extent required for the number of workforce housing units  
36 that are constructed, but not to more than the maximum height of the zone.

37 \* \* \*

38 **Sec. 2. DIVISION 59-C-2 is amended as follows:**

39 **DIVISION 59-C-2. RESIDENTIAL ZONES, MULTIPLE-FAMILY.**

40 \* \* \*

41 **59-C-2.4. Development standards.**

42 **59-C-2.41. Standard method of development.**

43 \* \* \*

	R-30	R-20	R-10	R-H
<b>59-C-2.418. Maximum Density of Development (Dwelling Units per Acre of Net Lot Area):</b>	14.5	21.7	43.5 <sup>3</sup>	<sup>3</sup>
* * *				

44  
45 <sup>3</sup> Workforce housing units [must] may be provided [as required by] under Section  
46 59-A-6.18 and Chapter 25B.

47 \* \* \*

48 **59-C-2.44 Special regulations for optional method development using transferable  
49 development rights.**

50 \* \* \*

51 **59-C-2.442. General provisions.**

52 \* \* \*

53 (d) A property developed with development rights must include Moderately Priced  
54 Dwelling Units (MPDUs) [as required by] under Chapter 25A and may include



55 workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
56 25B. The number of MPDUs and any resulting bonus density must be calculated  
57 after the base density of a property has been increased by a transfer of development  
58 rights. The calculation of the number of workforce housing units must be based on  
59 the total number of market dwelling units in the development, including any  
60 transfer of development rights[,] but not counting any MPDUs or resulting bonus  
61 density units. The MPDU density bonus does not require the acquisition of  
62 additional development rights.

63 \* \* \*

64 **Sec. 3. Division 59-C-4 is amended as follows:**

65 **DIVISION 59-C-4. COMMERCIAL ZONES.**

66 \* \* \*

67 **Sec. 59-C-4.357. C-2 zone-purpose and development standards.**

68 Residential development in the C-2 zone under Section 59-C-4.351(b) must include  
69 Moderately Priced Dwelling Units (MPDUs) as required by Chapter 25A and may  
70 include workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
71 25B.

72 \* \* \*

73 **Sec. 4. DIVISION 59-C-6 is amended as follows:**

74 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

75 \* \* \*

76 **59-C-6.2. Provisions of CBD zones.**

77 \* \* \*

78 **59-C-6.215. Methods of development and approval procedures.** Two methods of  
79 development are possible in each of these zones.

80 (a) **Standard method of development.** The standard method requires compliance  
81 with a specific set of development standards and permits a range of uses and a  
82 density compatible with these standards. If residential uses are included in a



83 development, Moderately Priced Dwelling Units (MPDUs) must be provided as  
84 required by Chapter 25A and workforce housing units [must] may be provided [as  
85 required by] under Section 59-A-6.18 and Chapter 25B. The maximum dwelling  
86 unit density or residential FAR may be increased in proportion to any MPDU  
87 density bonus provided on-site and under Section 59-A-6.18.2.

88 (b) **Optional method.** Under the optional method, greater densities may be permitted  
89 and there are fewer specific standards, but the developer must provide certain  
90 public facilities and amenities. The presence of these facilities and amenities is  
91 intended to make possible the creation of an environment capable of supporting the  
92 greater densities and intensities of development permitted. The Planning Board  
93 may, under Division 59-D-2: (1) authorize a payment instead of all or some of the  
94 required public facilities and amenities, or any required public use space; or (2)  
95 permit any required public use space to be provided off-site on private or public  
96 property in the same CBD. If residential uses are included in a development,  
97 Moderately Priced Dwelling Units must be provided under Chapter 25A and  
98 [Workforce Housing Units must] workforce housing units may be provided under  
99 Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or  
100 residential FAR may be increased in proportion to any MPDU density bonus  
101 provided on-site and under Section 59-A-6.18.2. The procedure for approval of an  
102 optional method project is specified in Division 59-D-2, and the procedure for  
103 approval of a site plan is specified in Division 59-D-3.

104 \* \* \*

105 **59-C-6.23. Development standards.**

106 \* \* \*



	CBD-0.5		CBD-R1 <sup>2</sup>		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
* * *												
<b>59-C-6.233. Minimum Public Use Space (percent of net lot area):</b>	10	20	10	20 <sup>16</sup>	10	20 <sup>20,22</sup>	10	20 <sup>22</sup>	10	20 <sup>22</sup>	10	20
(a) Standard Method — The public use space requirement may be reduced to accommodate the construction of MPDUs, including any resulting bonus density units, and workforce housing units, provided on-site to:	5		5		5		5		5		5	
* * *												
<b>59-C-6.235. Maximum Building Heights (in feet).</b>												
* * *												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased to:		60 <sup>12</sup>		143		90 <sup>1</sup>		200 <sup>11</sup>		200		200

107 <sup>1</sup> For projects using the optional method of development, the Planning Board may  
 108 approve height over 90 feet, but not more than 143 feet, if the additional height is  
 109 necessary for the project to [comply with the] accommodate workforce housing  
 110 [requirements of] under Section 59-A-6.18; however, the additional height must  
 111 not be more than required for the number of workforce housing units that are  
 112 constructed. For projects using the optional method of development involving  
 113 more than one lot under Section 59-C-6.2351, the Planning Board may approve



114 height over 90 feet, but not more than 143 feet, if the additional height is  
 115 specifically recommended for the property in the applicable sector plan or urban  
 116 renewal plan. In order to approve additional height for property where the  
 117 additional height is specifically recommended for the property in a sector plan or  
 118 urban renewal plan, the Planning Board must find that: [(1) The] (i) the additional  
 119 height is consistent with the criteria and guidelines for the property as contained in  
 120 the applicable sector plan or urban renewal plan; [(2) Except] (ii) except as  
 121 recommended in an urban renewal plan, the portion of the property upon which the  
 122 additional height is to be used is on all sides abutted by or adjacent to property  
 123 recommended in the applicable sector plan or urban renewal plan for classification  
 124 in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zones; [(3) The] (iii) the proposed  
 125 development is compatible with the surrounding development, considering but not  
 126 limited to the relationship of the building or buildings to the surrounding uses, the  
 127 need to preserve light and air for the residents of the development and residents of  
 128 surrounding properties, and any other factors relevant to the height of the building;  
 129 and [(4) The] (iv) the proposed development will produce a substantial amount of  
 130 consolidated public open space in excess of that which would be required if this  
 131 process were not used. The public open space must be designated as public  
 132 amenity space and be accessible to and usable by the public in accordance with the  
 133 applicable sector or master plan, or urban renewal plan.

134 \* \* \*

135 <sup>11</sup> Under the optional method of development process, the Planning Board may  
 136 approve height over 143 feet, but not more than 200 feet, if: (i) the additional  
 137 height is necessary for the project to [comply with the] accommodate workforce  
 138 housing [requirements of] under Section 59-A-6.18[;], however, the additional  
 139 height must not be more than required for the number of workforce housing units  
 140 that are constructed[,]; or (ii) the additional height is specifically recommended for  
 141 the property in the applicable sector plan or urban renewal plan, or the property is



142 within a revitalization area designated in the applicable sector plan and is located  
 143 fully or partially within 800 feet of an entrance to a metro station. In order to  
 144 approve additional height for property recommended in a sector plan or urban  
 145 renewal plan or within a designated revitalization area, the Planning Board must  
 146 find that: [(1) The] (i) the additional height is consistent with the criteria and  
 147 guidelines for the property as contained in the applicable sector plan or an urban  
 148 renewal plan approved by the County Council under Chapter 56, or in the case of a  
 149 site outside an urban renewal area, accomplishing the objectives of incorporating  
 150 residential development with commercial development in a mixed use project in  
 151 close proximity to a metro station otherwise unobtainable due to site conditions,  
 152 proximity of adjacent non-residential buildings, or other physical constraints  
 153 [which] that prevent the achievement of sector plan objectives; [(2) The] (ii) the  
 154 proposed development is compatible with the surrounding development,  
 155 considering but not limited to the relationship of the building or buildings to the  
 156 surrounding uses, the need to preserve light and air for the residents of the  
 157 development and residents of surrounding properties, and any other factors  
 158 relevant to the height of the building; and [(3) The] (iii) the proposed development  
 159 will provide additional public facilities and amenities beyond what could otherwise  
 160 have been provided if the excess height were not approved. Such facilities must be  
 161 accessible to and usable by the public in accordance with the applicable sector or  
 162 master plan or urban renewal plan.

163 <sup>12</sup> The Planning Board may approve height over 60 feet, but not more than 90 feet, if:  
 164 (i) [if] the additional height is consistent with an applicable sector plan or an  
 165 approved urban renewal plan; or (ii) the additional height is needed to [comply  
 166 with the] accommodate workforce housing [requirement of] under Section 59-A-  
 167 6.18; however, the additional height must not be more than required for the number  
 168 of workforce housing units that are constructed.

169 \* \* \*



170 **Sec. 5. DIVISION 59-C-7 is amended as follows:**

171 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

172 \* \* \*

173 **59-C-7.1. P-D zone—Planned development zone.**

174 \* \* \*

175 **59-C-7.14. Density of residential development.**

176 \* \* \*

177 (c) The density of development is based on the area shown for residential use on the  
178 master plan and must not exceed the density permitted by the density category  
179 granted. However, the maximum density allowed under subsection (a) may be  
180 increased to accommodate the construction of Moderately Priced Dwelling [units]  
181 Units and workforce housing units as follows:

182 (1) For projects with a residential density of less than 28 dwelling units per acre,  
183 the number of Moderately Priced Dwelling Units must not be less than either  
184 the number of [density] bonus density units or 12.5 percent of the total  
185 number of dwelling units, whichever is greater.

186 (2) For projects with a residential density of more than 28 dwelling units per  
187 acre, the number of Moderately Priced Dwelling Units must be at least 12.5  
188 percent of the total number of dwelling units [in accordance with] under  
189 Chapter 25A.

190 (3) Any project with a residential density at or above 40 dwelling units per acre  
191 [must] may provide workforce housing units [as required by] under Section  
192 59-A-6.18 and Chapter 25B.

193 \* \* \*

194 **Sec. 6. DIVISION 59-C-8 is amended as follows:**

195 **DIVISION 59-C-8. TRANSIT STATION DEVELOPMENT AREA ZONES.**

196 \* \* \*

197 **59-C-8.4. Development standards.**



	TS-R	TS-M
<b>59-C-8.42. Density of Development.</b>		
The density of development must not exceed any of the following:		
* * *		
(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units as required by Chapter 25A and the construction of workforce housing units [as required by] <u>under</u> Section 59-A-6.18 and Chapter 25B. The maximum number of dwelling units or residential FAR may be increased as needed for any MPDU density bonus and any workforce housing units provided on-site. The provision of MPDUs or workforce housing units does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.		

198 \* \* \*

199 **Sec. 7. Division 59-C-10 is amended as follows:**

200 **DIVISION 59-C-10. RMX ZONES –RESIDENTIAL MIXED-USE**  
201 **DEVELOPMENT**

202 \* \* \*

203 **59-C10.3.7. Maximum Residential Density.**

204 (a) The maximum residential density in an RMX zone must not exceed 30 dwelling  
205 units per acre for residential areas shown on the project plan. The density  
206 approved by the Planning Board must not exceed the density shown on the  
207 approved and adopted master plan, which must be no greater than the density  
208 permitted by the RMX zone. Where residential development is proposed to be  
209 located within a proposed commercial area, the maximum residential density for  
210 such areas must not exceed 40 dwelling units per acre. Any residential  
211 development must include Moderately Priced Dwelling units (MPDUs) as required  
212 by Chapter 25A and may include workforce housing units [as required by] under  
213 Section 59-A-6.18 and Chapter 25B.

214 \* \* \*

215 (c) The density of residential development must comply with the density  
216 recommended on the approved and adopted master plan; however, the number of  
217 residential dwellings must be increased to accommodate the construction of



218 Moderately Priced Dwelling [units] Units (MPDUs) as required by Chapter 25A  
219 and the construction of workforce housing units [as required by] under Section 59-  
220 A-6.18 and Chapter 25B.

221 \* \* \*

222 **Sec. 8. Division 59-C-13 is amended as follows:**

223 **DIVISION 59-C-13. TRANSIT ORIENTED, MIXED-USE ZONES (TOMX).**

224 \* \* \*

225 **59-C-13.2. Provisions of the Transit Oriented, Mixed-Use Zones.**

226 **59-C-13.21. Description, purpose, intent and general requirements.**

227 \* \* \*

228 **59-C-13.215. Methods of development and approval procedures.**

229 \* \* \*

230 (b) **Optional Method of Development:** The Optional Method of Development  
231 promotes additional densities[,] and supports innovative design and building  
232 technologies to create a pedestrian-oriented and mixed-use development pattern.  
233 Approval of the Optional Method of Development is dependent on providing  
234 required public amenities and facilities. The public facilities and amenities are  
235 intended to support the additional densities permitted under the Optional Method of  
236 Development. The procedure for the approval of the Optional Method of  
237 Development is set forth in Section 59-D-2. Site plans must be approved in  
238 accordance with Section 59-D-3. If residential uses are included in a development,  
239 Moderately Priced Dwelling Units must be provided as required by Chapter 25A,  
240 and workforce housing units [must] may be provided [as required by] under Section  
241 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential  
242 FAR may be increased in proportion to any MPDU density bonus provided on-site.

243 \* \* \*

244 **Sec. 9. Division 59-C-14 is amended as follows:**

245 **DIVISION 59-C-14[,], TRANSIT MIXED-USE (TMX) ZONE**



246 \* \* \*

247 **59-C-14.213. General requirements.**

248 \* \* \*

249 (b) **MPDUs and workforce housing.** If residential uses are included in a  
250 development, Moderately Priced Dwelling Units must be provided under Chapter  
251 25A, and workforce housing units [must] may be provided under Section 59-A-  
252 6.18 and Chapter 25B. The maximum residential FAR may be increased in  
253 proportion to any MPDU [density] bonus density [and workforce]. Workforce  
254 housing units [provided on-site] may increase the maximum residential FAR under  
255 Section 59-A-6.18.2. Site plan review under [section] Section 59-D-3 is required.

256 \* \* \*

257 **59-C-14.27. Special regulations for use of a Building Lot Termination (BLT)**  
258 **Development Right.**

259 [Except for residential development subject to the requirement of workforce housing  
260 under Section 59-A-6.18, the] The approval of an application for any gross floor area in  
261 an optional method of development project must be subject to the following  
262 requirements:

263 \* \* \*

264 **Sec. 10. Division 59-D-1 is amended as follows:**

265 **Sec. 59-D-1.6. Approval by [district council] District Council.**

266 **59-D-1.61. Findings.**

267 Before approving an application for classification in any of these zones, the District  
268 Council must consider whether the application, including the development plan, fulfills  
269 the purposes and requirements in Article 59-C for the zone. In so doing, the District  
270 Council must make the following specific findings, in addition to any other findings  
271 which may be necessary and appropriate to evaluate the proposed reclassification:



272 (a) The proposed development plan substantially complies with the use and density  
273 indicated by the master plan or sector plan, and does not conflict with the general  
274 plan, the county capital improvements program, or other applicable county plans  
275 and policies. However:

276 \* \* \*

277 (2) To permit the construction of [all] workforce housing units [required] under  
278 § 59-A-6.18 and Chapter 25B on site, the District Council may permit:

279 (A) any residential density or residential FAR limit of the applicable zone  
280 to be exceeded to the extent required for the number of workforce  
281 housing units that are constructed, but not by more than 10 percent.

282 (B) any residential density or residential FAR limit recommended in a  
283 master or sector plan to be exceeded to the extent required for the  
284 number of workforce housing units that are constructed, but not to  
285 more than the maximum density and FAR of the zone, except as  
286 provided in paragraph (1); and

287 (C) any building height limit recommended in a master or sector plan to  
288 be exceeded to the extent required for the number of workforce  
289 housing units that are constructed, but not to more than the maximum  
290 height of the zone.

291 \* \* \*

292 **Sec. 11. Effective date.** This ordinance becomes effective 20 days after the date  
293 of Council adoption.

294

295 This is a correct copy of Council action.

296

297

298 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

303



Resolution No.: \_\_\_\_\_  
Introduced: January 26, 2010  
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

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By: District Council

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Subject: Notice of Public Hearing on Zoning Text Amendment 10-01

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. 10-01, introduced on January 26, 2010 would amend the provisions concerning Workforce Housing.
3. The Planning, Housing, and Economic Development Committee requested the consideration of the Zoning Text Amendment to make Workforce Housing a voluntary program.

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 March 2, 2010 at 1:30 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.

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Linda M. Lauer, Clerk of the Council

