

Zoning Text Amendment No: 05-18  
Concerning: Hearing Examiner–Planning Board  
Draft No. & Date: 3 – 2/23/06  
Introduced: November 1, 2005  
Public Hearing: January 17, 2006  
Adopted: February 28, 2006  
Effective: March 1, 2006  
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: Councilmember Praisner

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

- authorizing the Planning Board to assign a hearing examiner to conduct a public hearing on a violation of a Planning Board action; and
- generally amending provisions related to the Planning Board’s authority to assign matters to a hearing examiner.

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

[[DIVISION 59-A-5 “COMPLIANCE REQUIRED”  
Section 59-A-5.8 “Planning Board–Assignment of a Hearing Examiner”]]  
Division 59-A-1, Purpose and Applicability  
Section 59-A-1.3. Violations, penalties, and enforcement

*EXPLANATION: **Boldface** indicates a heading or a 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.*

## OPINION

Zoning Text Amendment (ZTA) No. 05-18 was introduced on November 1, 2005, to authorize the Planning Board to assign a hearing examiner to conduct a public hearing on a violation of a Planning Board action, and generally amend provisions related to the Planning Board's authority to assign matters to a hearing examiner.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved with modifications.

The County Council held a public hearing on January 17, 2006, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation.

The Committee held worksessions on January 30, January 31, February 2, and February 6, 2006, to review the amendment. The Committee unanimously recommended enactment of the amendment with clarifying changes.

The District Council reviewed Zoning Text Amendment No. 05-18 at a meeting held on February 28, 2006, and supported the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-18 will be approved as revised.

## 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-A-5 is amended as follows:

2   **DIVISION 59-A-5.       COMPLIANCE REQUIRED.**

3   \* \* \*

4   **59-A-5.8.   Planning Board Public Hearing—Assignment of Hearing**  
5   **Examiner.**

6   The Planning Board may assign a hearing examiner to conduct a public hearing  
7   and provide a report and recommendation on a document noting a violation of a  
8   Planning Board action including any terms, conditions, requirements, or other  
9   obligations or limits made by the Planning Board under state law and Chapter 50  
10   and Chapter 59 including any regulation issued under state or County law.]]

11           **Sec. 1. Section 59-A-1.3 is amended as follows:**

12   **59-A-1.3.   Violations, penalties, and enforcement.**

13           (a)   [[Violations]] Any violation of this Chapter may be [[punishable]]  
14               punished as provided in State law.

15           (b)   In addition to all other remedies provided by law, any violation of this  
16               Chapter may, as an alternative, be punished by a civil fine [[of]] not  
17               exceeding \$500[[.00]] for each offense or [[such]] any lesser penalty  
18               [[as may be set]] allowed by regulation adopted under method 2.  
19               Each day a violation continues is a separate offense.

20           (c)   The Planning Board may assign a hearing officer designated by the  
21               Planning Board, including a Hearing Examiner from the Office of  
22               Zoning and Administrative Hearings, to conduct a public hearing and  
23               submit a report and recommendation on any alleged violation of this  
24               Chapter or any other Planning Board Action as defined in Section 50-  
25               41. The hearing officer must submit the required report and  
26               recommendation to the Planning Board not later than 60 days after the

27                   hearing record closes, but the hearing officer may by order extend the  
28                   time to file the report.

29                   **Sec. 2. Effective date.** This ordinance [[becomes effective 20 days after the  
30 date of Council adoption]] takes effect on March 1, 2006.

31 This is a correct copy of Council action.

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34 Linda M. Lauer, Clerk of the Council