

Ordinance No: 15-52  
Zoning Text Amendment No: 05-03  
Concerning: Signs - Variances  
Draft No. & Date: 5 9-23-05  
Introduced: February 1, 2005  
Public Hearing: March 8, 2005  
Adopted: September 27, 2005  
Effective: October 17, 2005

**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: Councilmembers Praisner and Leventhal

---

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

- increasing the Sign Review Board from 3 to 5 members.
- transferring authority to approve sign variances from the Sign Review Board to the Department of Permitting Services.

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

DIVISION 59-F-1 "Purpose, Intent, and Applicability"  
Section 59-F-1.3 "General"

DIVISION 59-F-4 "Permanent Sign - Design Elements and Limitations"  
Section 59-F-4.2 "By zone"  
Section 59-F-4.3 "Urban renewal areas"

DIVISION 59-F-10 "AUTHORITY"  
Section 59-F-10.1 "The Director of the Department of Permitting Services"  
Section 59-F-10.2 "Sign Review Board"

DIVISION 59-F-12 "Sign Variances"

**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. 05-03 was introduced on February 1, 2005, to increase the Sign Review Board from 3 to 5 members and transfer authority to approve sign variances from the Sign Review Board to the Director of Permitting Services, as the Committee Evaluation and Review Board (CERB) recommended.

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

The County Council held a public hearing on March 8, 2005, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Management and Fiscal Policy Committee for review and recommendation.

The Management and Fiscal Policy Committee held worksessions on March 14, June 13, and September 19, 2005, to review the amendment. The Committee unanimously recommended enactment of the amendment with further clarifying changes.

The District Council reviewed Zoning Text Amendment No. 05-03 at a meeting held on September 27, 2005, and supported the recommendations of the Management and Fiscal Policy 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. 05-03 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:*

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

**DIVISION 59-F-1. Purpose, Intent, and Applicability.**

\* \* \*

**59-F-1.3. General.**

\* \* \*

(b) To provide flexibility in the approval of sign permits, the [Sign Review Board] Department of Permitting Services may approve a variance from any provision of this Article except Division 59-F-7, "Prohibited Signs."

\* \* \*

**DIVISION 59-F-4. Permanent Sign - Design Elements and Limitations.**

Permanent signs are those which are intended to remain posted indefinitely. A permanent sign must obtain a permit [pursuant to] under Section 59-F-9.1 and may require a building permit or electrical permit due to its physical characteristics. [[Except as provided below, any]] Any sign not listed in this Article or which does not conform to the requirements in this Article must obtain a variance from the [Sign Review Board] Department of Permitting Services. [Permanent signs] [[Any permanent sign located [within] in an approved urban renewal area as part of an optional method development project [are] need not [required to] conform to the Design Elements and Limitations provisions of this Article[, provided the signs are] if the sign is approved by the Sign Review Board as part of a sign concept plan [pursuant to] under Section 59-F-10.2(b)(1)(H). However, the Sign Review Board must hold a public hearing on any sign concept plan [within] in the Urban Renewal Area, after 30-day notice, and verify that the applicant [for the sign concept plan approval] has complied with the variance notification requirements of [59-F-10.2(b)(1)(G)1] Section 59-F-10.2(b)(1)(F)1.]]

**59-F-4.2. By zone.**

28 In addition to the general design elements and limitations, the following  
29 requirements apply in the zones specified. Any permanent sign not listed in this  
30 Section or which does not conform to the requirements listed in this Section must  
31 obtain a variance from the [[Sign Review Board]] Department of Permitting  
32 Services.

33 \* \* \*

34 **59-F-4.3. Urban renewal areas.**

35 Any permanent sign located in an approved urban renewal area as part of an  
36 optional method development project need not conform to the Design Elements  
37 and Limitations of this Article if the Sign Review Board approves the sign as part  
38 of a sign concept plan under Section 59-F-10.2(b)(1)(F). Before approving any  
39 sign concept plan under this Section, the Sign Review Board must hold a public  
40 hearing on the plan in the Urban Renewal Area, after giving 30 days notice and  
41 verifying that the applicant has complied with all applicable variance notice  
42 requirements.

43 **DIVISION 59-F-10. AUTHORITY.**

44 **59-F-10.1. [[The]] Director of the Department of Permitting Services.**

45 (a) **Enforcement.**

46 \* \* \*

47 (4) **Enforcement of Variances.** The Director must enforce the  
48 conditions and terms of a variance issued by the [Sign Review  
49 Board] Department of Permitting Services.

50 \* \* \*

51 (b) **Permits and Licenses.**

52 (1) **Permits.** The Director may issue a permit required by this  
53 Article [upon compliance by] when the applicant complies with

54 [the requirements of] Section 59-F-9.1. A permit may be  
55 issued:

56 (A) for each sign on an individual basis; or

57 (B) for each sign on a collective basis [following the  
58 acceptance and approval of] after a sign concept plan [as  
59 required in] is approved under subsection 59-F-9.1(c)(7).

60 Except for optional method development [within] in an  
61 [approved] urban renewal area, when a sign concept plan  
62 exceeds the maximum allowable sign area for the site,  
63 the applicant must seek a variance from the [Sign Review  
64 Board] Department of Permitting Services in  
65 conformance with subsection 59-F-10.2(c)(2).

66 \* \* \*

67 (d) **Relief from an Action of the Director.**

68 (1) **Variance from the [Sign Review Board] Department of**  
69 **Permitting Services.** An applicant may file a request for a  
70 variance with the [Sign Review Board] Department of  
71 Permitting Services if the Director denies a sign permit because  
72 the proposed sign [[fails to]] does not comply with [the  
73 standards of] this Article.

74 \* \* \*

75 **59-F-10.2. Sign Review Board.**

76 (a) **Composition.** The Sign Review Board [is established as an agency  
77 which] consists of [3] 5 members:

78 (1) appointed by the County Executive[, subject to the confirmation  
79 of] and confirmed by the Council, and [bound by the  
80 requirements of] subject to Section 2-148 [of the Code];

- 81 (2) who are residents of the County;
- 82 (3) one of [the members] whom must [be the operator of] operate a
- 83 business in the County; and
- 84 (4) one of [the members] whom must be [a State of Maryland
- 85 licensed] an architect licensed in Maryland. [Prior to the
- 86 appointment of this member the County] The Executive must
- 87 request from the Potomac Valley Chapter of Maryland,
- 88 American Institute of Architects, recommendations of architects
- 89 who are [well] qualified to serve on the [Sign Review] Board,
- 90 [however] but the [County] Executive is not limited to [this] the
- 91 Chapter's recommendation[[:]];.
- 92 [(5) one of [the three members] whom] One member must be
- 93 [appointed chairperson] designated as chair by the [County]
- 94 Executive, subject to confirmation by the Council[[:]; and]];.
- 95 [(6) each [member] of whom] Each member serves a 3-year term,
- 96 except that an appointment to fill a vacancy occurring before
- 97 [the expiration of] a term expires is for the remainder of the
- 98 unexpired term.

99 (b) **Powers and Duties.**

- 100 (1) **Duties.** The Sign Review Board must:
- 101 (A) meet at least once a month at the call of the
- 102 [[chairperson]] chair.
- 103 (B) exercise its powers and duties only when a quorum is
- 104 present. A quorum is [[defined as]] not less than [[2]] 3
- 105 members.

106 \* \* \*

- 107 (E) approve the examination for ~~[[the]]~~ sign installer license  
108 administered by the Director under subsection 59-F-  
109 9.2(c).
- 110 [(F) not grant a variance for signs covered under division 59-  
111 F-7. "Prohibited Signs," or for requirements in Section  
112 59-F-9.2. "License."]
- 113 [(G) ~~[(F)~~ [Notification] Notice.
- 114 1. Verify that an applicant for a sign variance has:
- 115 a. Submitted to the Director with the application for a  
116 variance a list of all those to be notified of the  
117 hearing. The list must include:
- 118 i. Owners and residents of all properties  
119 contiguous or opposite to the proposed  
120 location of the sign. In the case of  
121 individual condominium owners within  
122 multi-family buildings, the condominium's  
123 council of unit owners may be notified  
124 instead;
- 125 ii. Officials of the local citizens association(s);
- 126 iii. Any municipality or special taxing district  
127 [within whose territory] where the proposed  
128 sign [is] would be located;
- 129 iv. The technical staff of the [Maryland  
130 National Capital Park and Planning  
131 Commission,] Planning Board if the sign [is  
132 to] would be located on property under a  
133 Section 59-D-3 site plan agreement; and

134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160

- v. Any citizen association or person/agency that has expressed an interest to the government or the applicant.
- b. Notified all persons and organizations on the list at least 15 days before the hearing.

2. Notify the parties of record of the [Sign Review Board] decision.]]

**[[H]] (F) Sign Concept Plan in an approved Urban Renewal Area**

\* \* \*

- (2) **Powers.** The Sign Review Board may:
  - (A) [provide a recommendation to] advise the Director [as to] whether an application for a permit [meets the requirements of] complies with this Article or needs a variance;
  - (B) order the appearance of a person or evidence at a hearing before them; and
  - [(C) hear and decide an application for a variance from the sign regulations of this Article after finding that:]
    - [1. the strict application of the sign regulation results in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden upon an applicant;]
    - [2. the variance is the minimum reasonably necessary to overcome any exceptional conditions; and]
    - [3. the variance can be granted without substantial impairment of the intent, purpose, and integrity of

- 161 the requirements of this Article. A variance  
162 decision must be based on consideration of:]
- 163 [(i) one or more of the following elements: size,  
164 shape, color, design elements, location, or  
165 cost of the sign;]
- 166 [(ii) the compatibility of the proposed sign with  
167 the surrounding property, the proximity of  
168 other signs, and the characteristics of the  
169 area; and]
- 170 [(iii) the recommendations of the Maryland-  
171 National Capital Park and Planning  
172 Commission or technical staff, if requested  
173 by the Sign Review Board or offered by the  
174 Commission.]
- 175 [(D) decide an application for a variance which involves a  
176 sign on property subject to a special exception issued by  
177 the Board of Appeals when:]
- 178 [1. the findings of subparagraph (C) above have been  
179 satisfied; and]
- 180 [2. the Board of Appeals has approved the sign.  
181 Nothing in this subparagraph precludes the Sign  
182 Review Board from imposing more restrictive  
183 conditions than the Board of Appeals, but it must  
184 not approve a variance for a sign which is less  
185 restrictive than the conditions set by the Board of  
186 Appeals.]

- 187 (E) ~~(C)~~ approve a right-of-way sign as stipulated in subsection  
188 59-F-7.1.(f)(2) [based upon] after receiving a  
189 recommendation from the appropriate transportation  
190 jurisdiction[;].
- 191 [(F) impose conditions and terms on a sign variance; and]  
192 [(G) conduct a show cause hearing for revocation of a  
193 previously granted sign variance when it determines:]
- 194 [1. the applicant supplied inaccurate information to  
195 the Sign Review Board, or]  
196 [2. the terms of a variance set by the Sign Review  
197 Board have not been met or have been violated.]

198 \* \* \*

199 **DIVISION 59-F-12. Sign Variances.**

- 200 (a) The Director of Permitting Services, or the Director's designee, may:
- 201 (1) after a hearing, approve an application for a variance from the  
202 sign [[regulations]] requirements of this Article if [[the Director  
203 finds that]]:
- 204 (A) the strict application of [[the sign regulation results]]  
205 those requirements would result in a particular or unusual  
206 practical difficulty, exceptional or undue hardship, or  
207 significant economic burden on an applicant;
- 208 (B) the variance is the minimum reasonably necessary to  
209 overcome any exceptional conditions; and
- 210 (C) the variance can be granted without substantial  
211 impairment of the purpose of this Article[[. A variance  
212 decision must consider:

- 213 (i) the sign's size, shape, color, design elements,  
214 location, or cost;
- 215 (ii) compatibility of the proposed sign with the  
216 surrounding property, the proximity of other signs,  
217 and the characteristics of the area; and
- 218 (iii) any recommendation of the Planning Board or its  
219 technical staff]];
- 220 (2) approve a variance for a sign on property subject to a special  
221 exception issued by the Board of Appeals if:
- 222 (A) the elements of subparagraph (a)(1)(A) have been  
223 satisfied; and
- 224 (B) the Board of Appeals has approved the sign. Nothing in  
225 this paragraph precludes the Director or designee from  
226 imposing more restrictive conditions than the Board of  
227 Appeals, but the Director or designee must not approve a  
228 variance which is less restrictive than any condition set  
229 by the Board of Appeals; and
- 230 (3) after hearing, revoke a previously granted sign variance if [[the  
231 Director finds that]]:
- 232 (A) the applicant supplied inaccurate information, or  
233 (B) the terms of a variance have not been met.
- 234 (b) In each variance decision the Director or designee must consider:
- 235 (1) the sign's size, shape, color, design elements, location, or cost;  
236 (2) compatibility of the proposed sign with the surrounding  
237 property, the proximity of other signs, and the characteristics of  
238 the area; and

- 239           (3) any recommendation of the Planning Board or its technical  
240           staff.
- 241       ~~[[b)]~~ (c) The Director or designee may impose conditions and terms when  
242           approving a variance.
- 243       ~~[[c)]~~ (d) The Director or designee must not approve a variance for any sign  
244           prohibited under Division 59-F-7, or vary any requirement of Section  
245           59-F-9.2.
- 246       (e) The Director or designee must verify that each applicant for a sign  
247           variance has:
- 248           (1) submitted with the application for a variance a list of all persons  
249           and organizations who must be notified of the hearing; and  
250           (2) notified each person and organization on the list at least 15 days  
251           before the hearing.
- 252       (f) Those persons and organizations entitled to notice of the hearing are:
- 253           (1) the owner and all residents of each property that is contiguous  
254           or opposite to the proposed location of the sign. A  
255           condominium's council of unit owners may be notified instead  
256           of the owner and residents of each individual condominium;  
257           (2) the head officer of any citizens association on file with the  
258           Planning Board that represents the area where the sign would  
259           be located;  
260           (3) any municipality or special taxing district in which the  
261           proposed sign would be located;  
262           (4) the technical staff of the Planning Board if the sign would be  
263           located on property subject to a site plan agreement; and

264 (5) any other person or organization that expressed an interest in  
265 writing to the Department or the applicant before the notice is  
266 sent.

267 (g) The Director may approve a variance under subsection (a)(1) without  
268 holding a hearing if:

269 (1) after receiving notice under subsection (f), no person has  
270 expressed an intention by a specified deadline to oppose the  
271 application or otherwise appear at the hearing; and

272 (2) the Director concludes that approval of a variance would not  
273 create any negative impact on the area where the sign is or  
274 would be located.

275 (h) The Director or designee must notify each party of record of the  
276 variance decision when it is issued. Any party may appeal the  
277 Director's decision to the Board of Appeals under Section 59-F-10.3.

278 **Sec. 2. Transition. Of the 2 members added to the Sign Review Board**  
279 **under Section 59-F-10.2, as amended by Section 1, the County Executive must**  
280 **appoint one for an initial term of one year and one for an initial term of 2 years.**

281  
282 This is a correct copy of Council action.

283  
284 Linda M. Lauer

10/3/05

285 Linda M. Lauer, Clerk of the Council

Date