

Ordinance No: 16-48  
Zoning Text Amendment No: 09-09  
Concerning: Planning Board  
Enforcement  
Draft No. & Date: 3 – 3/25/10  
Introduced: October 6, 2009  
Public Hearing: November 24, 2009  
Adopted: April 6, 2010  
Effective: April 26, 2010

**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 at the Request of the Planning Board

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**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 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.

## OPINION

Zoning Text Amendment No. 09-09 was introduced on October 6, 2009 at the request of the Planning Board.

A public hearing was advertised for November 17, 2009. The County Council thereafter postponed the hearing. On November 24, 2009 the Council held the public hearing to receive testimony concerning the proposed amendment. The Planning Board representative spoke in favor, as did David Brown. There was no opposition. The amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the amendment on March 17, 2010. The Committee recommended the revisions to make ZTA 09-09 consistent with SRA 09-03.

The District Council reviewed Zoning Text Amendment No. 09-09 at a worksession held on April 6, 2010, and agreed with 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. 09-09 will be approved as amended.

## 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-1 is amended as follows:**

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

3           \*   \*   \*

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

5           \*   \*   \*

6           (b)   In addition to all other remedies provided by law, any violation of this  
7           Chapter may, as an alternative, be punished by a civil fine [[not exceeding  
8           \$500 for each offense or any lesser]] equal to the maximum allowed by  
9           Article 28 §7-116(h) of the Maryland Code as amended and any penalty  
10          allowed by regulation adopted under method 2. Each day a violation  
11          continues is a separate offense.

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

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

24          \*   \*   \*

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

26           **DIVISION 59-D-3. SITE PLAN.**

27 **59-D-3.6. Failure to comply.**

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

35 (1) impose a civil fine or administrative civil penalty authorized by  
36 Section 50-41;

37 (2) suspend or revoke the site plan;

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

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

42 (5) take any combination of these actions.

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

51 \* \* \*

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

54

55 This is a correct copy of Council action.

56

57 *Linda M. Lauer*

58 Linda M. Lauer, Clerk of the Council