

Ordinance No: 15-59
Zoning Text Amendment No: 05-14
Concerning: Sign Ordinance
Draft No. & Date: 1 – 9/27/05
Introduced: September 27, 2005
Public Hearing: 11/1/05; 1:30 p.m.
Adopted: January 24, 2006
Effective: February 13, 2006

**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 Denis and Perez

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

- eliminating the permit requirement for limited duration signs; and
- generally amending provisions related to limited duration signs.

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

DIVISION 59-F-1 “Purpose, Intent, and Applicability”
Section 59-F-1.3 “General”
DIVISION 59-F-5 “Limited Duration Signs”
Section 59-F-5.1 “Permit”

*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 No. 05-14 was introduced on September 27, 2005 to eliminate the permit requirement for a limited duration sign and generally amend provisions related to limited duration signs. Under ZTA 05-14, a permit would still be required for a limited duration sign in the public right-of-way. Current regulations require an individual who wishes to place a sign of limited duration on private property to obtain a permit from the Director of Permitting Services and pay a sign permit fee. Each sign must have information affixed to the sign as required by the Director and include the expiration date. The permit must be renewed annually.

The ZTA addresses an issue raised by the American Civil Liberties Union (ACLU) that the County's permit and fee requirement for a sign of limited duration imposes an unconstitutional burden on the speech of homeowners who wish to use their property to advocate certain issues. The issue arises from an action taken by the Department of Permitting Services (DPS) requiring a County resident to obtain a permit to post a "political sign" on private property for more than 29 days. The County's sign ordinance does not regulate the placement of signs by the message it conveys. A permit would be required for any sign regardless of its message, if the sign were in place for more than 29 days. A temporary sign may not be displayed for more than 29 days in a calendar year. A limited duration sign and a temporary sign differ only in the length of time the sign may be displayed and the requirement for a permit.

According to the ACLU, the Supreme Court in *Curry v. Prince Georges County* stated that "A person cannot be compelled to purchase, through a license fee or tax, the privilege freely granted by the Constitution". The ACLU acknowledges that the County may impose reasonable time, place, and manner restrictions on speech, including the posting of signs; however, the current regulations as applied are alleged to burden issue-advocacy speech more than is permitted by the Constitution.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be deferred. In the Board's opinion, ZTA 05-14 is too broad in its applicability.

The County Council held a public hearing on November 1, 2005, to receive testimony concerning the proposed text amendment. The text 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 on November 28, 2005 to review the text amendment. After careful review of the materials of record, the Committee recommended that ZTA 05-14 be disapproved. The Committee believed that the permit requirement for a limited duration sign provides an important oversight function for regulating sign clutter and should not be deleted. The Committee was not convinced by the ACLU's legal argument that the existing regulation requiring a sign permit for a limited duration sign is unconstitutional. The Committee noted that if the Council is inclined to approve ZTA 05-14, certain of the limited duration sign permit requirements proposed to be deleted under the ZTA 05-14 will need to be retained to reflect the current practice of issuing limited duration sign permits in the public right-of-way.

The District Council reviewed Zoning Text Amendment No. 05-14 at a worksession held on January 24, 2006. The Council did not agree with the Committee recommendation to disapprove ZTA 05-14. It was the position of the Council that it is important to have an inexpensive and convenient form of communication for residents who wish to use their property to express advocacy on issues important to them. The requirement to obtain a limited duration permit is believed to be inconsistent with this objective. The Council agreed that ZTA 05-14 fully addresses the constitutional concerns raised by the ACLU and should be approved. The Council also agreed that certain of the limited duration sign permit requirements proposed to be deleted in the ZTA 05-14 as introduced need to be retained to reflect the current practice of issuing limited duration sign permits in the public right-of-way.

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. 05-14 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-F is amended as follows:**

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

3 * * *

4 **59-F-1.3. General.**

5 (a) A sign must have a permit issued by the department in conformance
6 with Section 59-F- 5.1 or Section 59-F-9.1., except for signs covered by division
7 59-F-6, "Temporary Signs," division 59-F-5, "Limited Duration Signs," and
8 division 59-F-8, "Exempt Signs."

9 * * *

10 **Division 59-F-5. Limited Duration Signs.**

11 **59-F-5.1. [Permit] Generally.**

12 [[a)] (a) Requirements. A permit [must be obtained] is not required for a
13 limited duration sign on private property. A limited duration sign is
14 subject to the following provisions:

15 [[1)] ~~[[a)]~~ (1) The sign must not be constructed in a manner that
16 requires a building or electrical permit.

17 (2) The Director may issue a permit for one or more signs on
18 private property. Each sign approved by the permit must
19 display and have affixed to the sign information in a format as
20 required by the Director, including the date of expiration of the
21 permit.]

22

23 (2) Each sign approved by the permit must display and have
24 affixed to the sign information in a format as required by the
25 Director, including the date of expiration of the permit.

26 [(3) A permit is issued for one year and may be renewed annually.]

27 (3) A permit is issued for one year and may be renewed annually.

28 [(4)] [(b)] (4) A limited duration sign is allowed in any zone.

29 [(5) A limited duration sign may be relocated upon approval by the
30 Director.

31 (b) Application. An application for a limitation duration sign permit must
32 include:

33 (1) a description of the sign indicating:

34 (A) the number, size, shape, dimensions, and colors of the
35 signs; and

36 (B) the time and day of the week during which the sign will
37 be displayed.

38 (2) a drawing of the site or a schematic of the area showing the
39 proposed location of the sign in relation to nearby buildings and
40 streets; and

41 (3) other information required by the Director to insure compliance
42 with this Article and other Sections of the Code.]

43 (5) A limited duration sign may be relocated upon approval by the
44 Director.

45 (b) Application. An application for a limitation duration sign permit must
46 include:

47 (1) a description of the sign indicating:

48 (A) the number, size, shape, dimensions, and colors of the
49 sign; and


50 (B) the time and day of the week during which the sign will
51 be displayed.

52 (2) a drawing of the site or a schematic of the area showing the
53 proposed location of the sign in relation to nearby buildings and
54 streets; and

55 (3) other information required by the Director to insure compliance
56 with this Article and other Sections of the Code.

57 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
58 date of Council adoption.

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60 This is a correct copy of Council action.

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63 Linda M. Lauer, Clerk of the Council