

Ordinance No: 16-43  
Zoning Text Amendment No: 09-14  
Concerning: Hearing Examiner -  
Report Dissemination  
Draft No. & Date: 1 - 12/01/09  
Introduced: December 8, 2009  
Public Hearing: January 19, 2010  
Adopted: February 2, 2010  
Effective: February 22, 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: Councilmembers Knapp, Trachtenberg, and Leventhal

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AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the dissemination requirements for reports and recommendations from the Hearing Examiner

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

DIVISION 59-A-4. COUNTY BOARD OF APPEALS  
Section 59-A-4.61 Generally

DIVISION 59-H-5 HEARING EXAMINER  
Section 59-H-5.12 Report

**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. 09-14, sponsored by Councilmembers Knapp, Trachtenberg, and Leventhal at the request of the Hearing Examiner, was introduced on December 8, 2009. Under ZTA 09-14, a mailed letter would describe the special exception or local map amendment request, state whether the Hearing Examiner recommended approval or denial, and provide instructions to locate a copy of the report on the County's website. The notice would also include a statement concerning a party's right to request oral argument before the Board of Appeals. The Hearing Examiner's office would be required to mail full reports and recommendations only to a person or entity entitled to notice of the report's issuance who states in writing that they do not have access to the internet and that they want the full report.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved. Planning Staff also recommended approval.

The County Council held a public hearing on January 19, 2010 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 January 21, 2010 to review the amendment. The Committee recommended approval of ZTA 09-14 as introduced. ZTA 09-14, in the opinion of the Committee, would provide adequate information to interested parties and reduce administrative costs.

The District Council reviewed Zoning Text Amendment No. 09-14 at a worksession held on February 2, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee. By approving this ZTA, the Council does not intend to prevent anyone from requesting and obtaining a printed copy of a Hearing Examiner's report through payment of a per-page rate for the copy.

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. 09-14 will be approved as introduced.

## 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-4. is amended as follows:**

**Division 59-A-4 COUNTY BOARD OF APPEALS.**

\* \* \*

**59-A-4.61. Generally.**

\* \* \*

(d) When the Hearing Examiner transmits a report to [Concurrently with the transmittal to the Council or] the Board of Appeals, the Examiner must at the same time send written notification that the report and recommendation has been issued, by regular mail, [copies of the Hearing Examiner's report and recommendation must be mailed] to the petitioner, the Planning Board, and [to] all persons [who and associations which] or entities who appeared and testified in person or by counsel at the hearing, as evidenced by the hearing transcript. The notification must briefly describe the special exception requested, state whether the Hearing Examiner recommended approval or denial, provide instructions to locate a readable and printable copy of the report on the County's web site, and identify the right to request oral argument before the Board of Appeals. The Hearing Examiner must send a paper copy of the report and recommendation to the Planning Board on request, and to any person or entity entitled to notice of the report's issuance who states in writing that they do not have access to email and/or the internet.

\* \* \*

**Sec. 2. DIVISION 59-H-5 is amended as follows:**

**DIVISION 59-H-5. HEARING EXAMINER.**

\* \* \*

**Section 59-H-5.12. Report.**

28 \* \* \*

29 (c) When the Hearing Examiner transmits a report to the District Council, the  
30 Examiner must also send written notification that the report and  
31 recommendation has been issued, by regular mail, [copies] to the applicant,  
32 the Planning Board, and each person or [association] entity who entered an  
33 appearance at the hearing, as shown in the hearing transcript. The  
34 notification must briefly describe the rezoning requested, state whether the  
35 Hearing Examiner recommended approval or denial, provide instructions to  
36 locate a readable and printable copy of the report on the County's web site,  
37 and identify the right to request oral argument before the District Council.  
38 The Hearing Examiner must send a paper copy of the report and  
39 recommendation to the Planning Board on request, and to any person or  
40 entity entitled to notice of the report's issuance who states in writing that  
41 they do not have access to email and/or the internet.

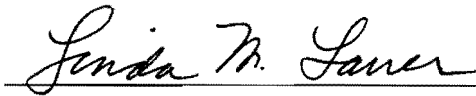
42 \* \* \*

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

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46 This is a correct copy of Council action.

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49 Linda M. Lauer, Clerk of the Council