

Ordinance No: 15-90
Zoning Text Amendment No: 06-24
Concerning: Home Occupation
Draft No. & Date: 2 – 10/31/06
Introduced: September 19, 2006
Public Hearing: 10/24/06; 1:30 p.m.
Adopted: October 31, 2006
Effective: October 31, 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: Councilmember Denis

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

- excluding the display of furniture for sale as a home occupation;
- terminating the display of furniture for sale as a home occupation; and
- generally amending home occupations.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION
Section 59-A-2.1. “Definitions”

DIVISION 59-A-3 “BUILDING AND USE-AND-OCCUPANCY PERMITS;
REGISTRATION OF CERTAIN USES”
Section 59-A-3.5. “Termination of Home Occupation”

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. 06-24 was introduced on September 19, 2006 sponsored by Councilmember Denis. The purpose of the ZTA is to exclude the display of furniture for sale as a permitted home occupation and to stop the display of furniture for sale in homes.

Planning Board and Planning Board staff opposed the ZTA as drafted for several reasons. The ZTA is over inclusive; it applies to furniture manufactured at home by a resident. At the same time, the ZTA is under inclusive; it does not apply to display and sale of other large objects (such as carpets, major appliances, or large screen televisions). Those homes that display large merchandise would produce the same negative impacts as furniture display and sale. The Planning Board finds that the existing ordinance already prevents home occupations that require any delivery by a large truck. The problem raised by the ZTA's sponsor may be one of enforcement, not drafting, in the Planning Board's opinion. In any event, the Planning Board believes that changes to the home occupation rules should await a comprehensive look at the performance standards for all home occupations.

On October 24, 2006 the Council held a public hearing on ZTA 06-24 to receive testimony concerning the proposed text amendment.. The testimony was generally in favor of the ZTA as introduced. Those who spoke in favor of ZTA 06-24 believe that the long-term concerns of the Planning Board should not prevent the Council from fixing an immediate problem. One resident spoke against the adoption of the ZTA. 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 October 26, 2006 to review the amendment. The Committee recommended approval of ZTA 06-24 with amendments. The Committee recommended permitting the display of furniture made at home but not permitting the display of furniture for sale that is manufactured off-site. The Committee made this recommendation in response to the Department of Permitting Services' recent interpretation of the current Zoning Ordinance. The Committee further recommended that existing prohibited uses cease operation within 12 months and that the text amendment take effect immediately upon adoption.

The Committee recognized that the display of furniture for sale is not a use compatible in a residential setting. Showroom-like uses are beyond the scale of activity contemplated by the Committee as appropriate for a home occupation. In addition, the text of the current Zoning Ordinance that states, "No truck deliveries are permitted, except for parcels delivered by public or private parcel services that customarily make residential deliveries" for any home occupation. If allowed, the display of furniture manufactured off-site would invite the use of freight trucks for delivery.. Where a resident is hand-making furniture and large delivery trucks are not ordinarily anticipated as part of the home occupation, the Committee recommended permitting that use to continue.

The District Council reviewed Zoning Text Amendment No. 06-24 at a worksession held on October 31, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development.

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. 06-24 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:

Sec. 1. DIVISION 59-A-2 is amended as follows:

DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.

59-A-2.1. Definitions.

* * *

Home occupation: Any occupation, other than a registered home health practitioner's office, that provides a service or product and is conducted within a dwelling unit by a resident or residents of the dwelling unit without diminishing its residential character.

* * *

A home occupation includes, but is not limited to, the office of a member of a recognized profession, such as a lawyer, accountant, architect, engineer, or veterinarian who resides in the dwelling unit in which the office is located. A home occupation does not include the following [or other uses specifically defined or regulated elsewhere in this Ordinance]: bed-and-breakfast establishment, boardinghouse, day care facility, display of furniture not made in the home for sale in the home or at an offsite location, landscape contractor, private educational institution, tourist home, or the repair and maintenance of motor vehicles.

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Sec. 2. DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY PERMITS; REGISTRATION OF CERTAIN USES.

* * *

59-A-3.5. Termination of Home Occupation.

(a) The repair and maintenance of motor vehicles for compensation must not be conducted as a no-impact home occupation. The repair and maintenance of motor vehicles may be conducted as a registered home occupation under the non-conforming use provisions of Division 59-G-4 if the use:

27 [(a)](1) was authorized by the Department of Environmental Protection
28 as a registered home occupation under an application filed
29 before October 25, 1994; or

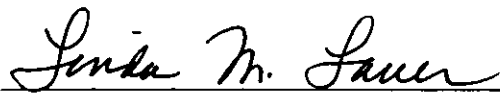
30 [(b)](2) was conducted primarily as a home occupation at a single
31 family detached dwelling under a certificate of registration
32 issued before October 25, 1994 by the Office of Consumer
33 Affairs under Chapter 31A, and all requirements of Section 59-
34 A-3.4 and Section 59-A-6.1(a) and (c) are met by September
35 20, 1995.

36 A non-conforming use allowed under ([a]1) or ([b]2) terminates when ownership
37 or occupancy of the residence changes.

38 (b) The display of furniture not made in the home for sale in the home or at an
39 offsite location must not be conducted as a home occupation. All home
40 occupations of this type must cease operating within 12 months from [[the
41 enactment of this section]] October 31, 2006.

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

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46 This is a correct copy of Council action.

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51 Linda M. Lauer, Clerk of the Council