

Ordinance No: 16-02
Zoning Text Amendment No: 06-25
Concerning: Signs-Generally and Arts
Districts
Draft No. & Date: 2 – 2/6/07
Introduced: December 12, 2006
Public Hearing: 1/16/07; 1:30 p.m.
Adopted: February 6, 2007
Effective: February 26, 2007

**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 Floreen and Ervin

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

- confirming that signs not authorized by the Zoning Ordinance are prohibited;
- confirming that the prohibition on “Off-site” signs applies to signs that refer to a location, person, entity, product, business, message, or activity that is not connected with the property where the sign is located;
- deleting regulations related to holiday signs;
- establishing standards for signs in an Urban Renewal Area located in an Arts and Entertainment District; and
- generally amending sign requirements.

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

ARTICLE 59-F	“SIGNS”
Section 59-F-1.3	“General”
DIVISION 59-F-2	“DEFINITIONS”
DIVISION 59-F-7	“PROHIBITED SIGNS”
Section 59-F-7.1	“Unlawful to erect or retain”
DIVISION 59-F-8	“EXEMPT SIGNS”
Section 59-F-8.1	“Exempt”

Add the following new Division:

DIVISION 59-F-13 “REGULATIONS FOR SIGNS IN URBAN RENEWAL AREAS
THAT ARE WITHIN AN ARTS AND ENTERTAINMENT DISTRICT”
Section 59-F-13.1 “Regulations”

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. 06-25 was introduced on December 12, 2006 for the purpose of confirming that signs not authorized by the Zoning Ordinance are prohibited; confirming that the prohibition on "Off-site" signs applies to signs that refer to a location, person, entity, product, business, message, or activity that is not connected with the property where the sign is located; deleting regulations related to holiday signs; establishing standards for signs in an Urban Renewal Area located in an Arts and Entertainment District; and generally amending sign requirements.

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

The County Council held a public hearing on January 16, 2007, 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 29, 2007 to review the amendment.

Zoning Text Amendment 06-25 responds to the decision of the Maryland Court of Special Appeals in *Eller Media Company v. Montgomery County, et al.*, Case Nos. 00571 & 00867. In that decision, the Maryland Court of Special Appeals questioned whether the County's prohibition on "Off-site" signs in Section 59-F-7.1(i) of the Zoning Ordinance applies to all billboards or off-site signs. The court suggested that the prohibition may not apply to off-site signs that advertise products or services not located at the site. This Zoning Text Amendment reiterates that the "Off-site" sign prohibition was, and is, intended to apply to all such off-site signs, including the billboards at issue in the *Eller* case. The term "site" as used in that section, was intended to include not only a location, but also a person, entity, product, business, message, or activity. Since 1986, Montgomery County has prohibited off-site signs. None of the subsequent amendments to the Ordinance was intended to exempt *Eller's* billboards, or any others, from that prohibition.

This Zoning Text Amendment was also introduced to establish regulations specific to signs in an Urban Renewal Area within an Arts and Entertainment District. These areas have a concentration of arts and entertainment uses that have unique signage needs. The new regulations accommodate those needs, while protecting public safety.

The Planning, Housing, and Economic Development Committee recommended the adoption of ZTA 06-26 with an amendment to include parcels regulated by a sign concept plan within the definition of property.

The District Council reviewed Zoning Text Amendment No. 06-25 at a worksession held on February 5, 2007, 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. 06-25 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. ARTICLE 59-F is amended as follows:

ARTICLE 59-F. SIGNS.

* * *

Sec. 59-F-1.3. General.

* * *

(d) Any sign not authorized by the Zoning Ordinance is prohibited.

Sec. 2. DIVISION 59-F-2 is amended as follows:

DIVISION 59-F-2. DEFINITIONS.

* * *

Inflatable device: A sign that is cold air inflated made of flexible fabric, resting on the ground or attached to a structure and equipped with a portable blower motor that provides a constant flow of air into the device. Inflatable devices may be restrained, attached, or held in place by a cord, rope, cable or similar method. An inflatable device is not an object that contains helium, hot air or lighter-than-air substance.

* * *

Off-site sign: A sign that identifies or refers to a location, person, entity, product, business, message, or activity that is not connected with a use that is lawfully occurring on the Property where the sign is located.

* * *

Property: [[A parcel of land, including a building,]] One or more parcels of land that:

(a) includes buildings under common control, operation, or ownership[[,]]; or
[[land]]

(b) are subject to a project plan, site plan, sign concept plan, or combined urban renewal project plan.

* * *

Sec. 3. DIVISION 59-F-7 is amended as follows:

DIVISION 59-F-7. PROHIBITED SIGNS.

Sec. 59-F-7.1. Unlawful to erect or retain.

* * *

(i) **Off-site sign.** [Except if approved pursuant to Section 59-F-10.2(b)(1)(H) as part of a sign concept plan for an optional method development project within an approved urban renewal area and, except for signs permitted by this ordinance, a sign must not be used to identify a site other than the site where the sign is erected. Signs or structures that were lawful on July 28, 1986 or were lawfully constructed, structurally altered, or relocated after July 28, 1986 may be continued for a period of 5 years from July 13, 1992. At the end of this amortization period, the signs or structures must be removed within 90 days at the owner's expense.] Off-site signs are prohibited.

* * *

Sec. 4. DIVISION 59-F-8 is amended as follows:

DIVISION 59-F-8. EXEMPT SIGNS

Sec. 59-F-8.1. Exempt.

* * *

(c) **Regardless of Size.** * * *

[(7) **Holidays.** A sign, including lighting in accordance with the electrical requirements of Chapter 17 of this Code, displayed in connection with the observance of any holiday, provided that it must be removed within 10 days following the end of the holiday.]

[(8)] (7) **Adornments and Decorations.** Any adornments or seasonal decorations.

* * *

Sec. 5. DIVISION 59-F-13 is added as follows:

**DIVISION 59-F-13. REGULATIONS FOR SIGNS IN URBAN RENEWAL
AREAS THAT ARE WITHIN AN ARTS AND ENTERTAINMENT
DISTRICT**

59-F-13.1. Regulations.

A sign or inflatable device that:

- (a) is located in an urban renewal area that is within an arts and entertainment district;
 - (b) promotes an entertainment event conducted by an entity located within the urban renewal area of an arts and entertainment district;
 - (c) is erected for no longer than thirty (30) days; and
 - (d) includes more than 1,500 square feet of surface area,
- is exempt from the following:

- 1) the prohibition on animal forms in Section 59-F-4.1(f)(2);
- 2) the size, height, and area limitations in Article 59-F;
- 3) the prohibition on roof signs in Section 59-F-7.1(b); and
- 4) the prohibition on signs in the public right of way in Section 59-F-7.1(f) if constructed 20 feet or more above the public right of way.

Sec. 6. Amortization

Signs or structures that were lawful on July 28, 1986 or were lawfully constructed, structurally altered, or relocated after July 28, 1986 may be continued for a period of 5 years from July 13, 1992. At the end of this amortization period, the signs or structures must be removed within 90 days at the owner's expense.

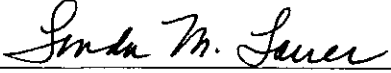
78 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
79 date of Council adoption.

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81 This is a correct copy of Council action.

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85 Linda M. Lauer, Clerk of the Council