

Zoning Text Amendment No: 05-17
Concerning: Site Plan Enforcement
Draft No. & Date: 2 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 p.m.
Adopted:
Effective:
Ordinance No:

**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, Floreen and Knapp

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

- requiring a use and occupancy permit for a building used exclusively as a one-family detached dwelling,
- assigning site plan enforcement responsibility to the Department of Permitting Services, and
- generally amending provisions related to site plan review and enforcement.

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-3.21 “Generally”
ARTICLE 59-D “ZONING DISTRICTS—APPROVAL PROCEDURES”
Section 59-D-3.4 “Action by the Planning Board”
Section 59-D-3.5. “Enforcement”
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 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.*

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-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1 Definitions.**

4 In this Chapter, the following words and phrases have the meanings indicated:

5 * * *

6 **Department:** The Department of Permitting Services.

7 * * *

8 **Director:** The Director of the Department of Permitting Services or the Director’s
9 designee.

10 * * *

11 **Sec. 2. DIVISION 59-A-3 is amended as follows:**

12 **DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY**

13 **PERMITS; REGISTRATION OF CERTAIN USES.**

14 * * *

15 **59-A-3.21. Generally.**

16 A use-and-occupancy permit certifying compliance with this Chapter must be
17 issued by the Director before any building, structure, or land can be used or can be
18 converted, wholly or in part, from one use to another. However, a use-and-
19 occupancy permit is not required for:

- 20 (a) [A building used exclusively as a one-family, detached dwelling or for
21 uses] Uses incidental to the residential use of a one-family, detached
22 dwelling. A registered home occupation [or] and a no-impact home
23 occupation [is deemed to be] are incidental to [the] a residential use.
24 A registered home health practitioner’s office is not incidental to a
25 residential use; [it] and requires a use-and-occupancy permit unless [it
26 is subject to the exemption provisions of] exempted by Section 59-A-
27 6.1(d)(9). [The] A use-and-occupancy permit for a registered home

28 health practitioner [cannot] must not be issued unless the practitioner
29 has signed the Affidavit of Compliance required by Section 59-A-
30 3.42.

31 * * *

32 **Sec. 3. ARTICLE 59-D is amended as follows:**

33 **ARTICLE 59-D. ZONING DISTRICTS—APPROVAL PROCEDURES.**

34 * * *

35 **59-D-3.4. Action by Planning Board.**

36 * * *

37 (c) Upon approval, the site plan must be:

38 (1) Signed by the applicant agreeing to execute all the features and
39 requirements that are part of the site plan;

40 (2) Signed by the Chairman of the Planning Board, [or his designee,]
41 certifying Planning Board approval of the site plan; and

42 (3) Forwarded to the Department, with the Board’s opinion and all
43 applicable amendments [for reference in issuing building permits
44 under Section 59-D-3.5].

45 **59-D-3.5. Effect of site plan.**

46 In the case of any land in a zone requiring site plan approval[, as provided in
47 article 59-C,] or any special exception for which site plan approval is a condition,
48 [as provided in sections 59-A-4.22 and 59-G-1.22(b)], a record plat [required by
49 chapter 50 of this Code, title “Subdivision of Land,] must not be approved unless
50 it is in strict compliance with a site plan approved [as provided by this division 59-
51 D-3] by the Planning Board. [No] A sediment control permit, building permit, or
52 use-and-occupancy permit [may] must not be issued unless it is in strict
53 compliance with an approved site plan. All the requirements and features that are
54 part of the approved site plan must be executed in accordance with the applicant’s

55 development program [required by section 59-D-3.23(m)]. A performance bond
56 securing compliance with and full execution of all features of the site plan may be
57 required to be posted with the Planning Board in an amount established by the
58 Planning Board. [In such cases, no] If a bond is required, a sediment control
59 permit, building permit, or use-and-occupancy permit [may] must not be issued
60 until this bond is posted.

61 **59-D-3.6. Enforcement.**

62 The Department must enforce each site plan approved by the Planning Board,
63 including any term, condition, requirement, agreement, or other obligation or limit
64 associated with a site plan. The Department may adopt regulations under Method
65 2 to implement the Department’s site plan enforcement responsibilities.

66 **59-D-3.[6]7. Failure to comply.**

67 If the [Planning Board] Department finds, for any plan approved under this section,
68 on its own motion or after a complaint is filed with the Planning Board or the
69 Department, that any [of the terms, conditions or restrictions upon] term, condition,
70 or restriction which the site plan was approved [are] is not being complied with,
71 the [Planning Board] Department, after due notice to all parties concerned and a
72 hearing, may revoke [its approval of the] the site plan or approve a [plan of]
73 compliance program which would permit the applicant to take corrective action to
74 comply with the site plan. If at the end of the [term of the plan of] compliance
75 program the applicant has not taken sufficient corrective action [has not taken
76 place to cause compliance], the [Planning Board] Department may revoke [its
77 approval of] the site plan or take other action necessary to ensure compliance,
78 including imposing civil fines, penalties, stop work orders, and corrective orders
79 under [Chapter 50] Chapter 8. The [Planning Board] Department may request and
80 obtain investigations and reports as to compliance from appropriate County or
81 State agencies. [Upon decision by the Planning Board to revoke approval of] If the

82 Department revokes a site plan, any applicable building [permits] permit and use-
83 and-occupancy [permits issued pursuant to a prior Planning Board approval are
84 hereby declared invalid] permit is suspended until the site plan is reinstated or the
85 Planning Board approves a new site plan for the development.

86 **59-D-3.[7]8. Amendment of a site plan.**

87 * * *

88 **59-D-3.[8]9. Validity.**

89 * * *

90 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
91 date of Council adoption.

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93 This is a correct copy of Council action.

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98 Linda M. Lauer, Clerk of the Council