



Zoning Text Amendment (ZTA) No. 16-06, Prohibited Signs – Public Rights-of-Way



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Description

ZTA No. 16-06 would delete from the Zoning Ordinance provisions for limited duration signs; revise the provisions concerning temporary signs and prohibited signs, and add provisions concerning the treatment of prohibited signs in the right of way. The resulting text would prohibit all non-permanent signs in public rights-of-way and specify enforcement procedures for illegal signs in rights-of-way.

Summary

Staff has no objection to ZTA 16-06 that would result in the prohibition of all non-permanent signs in public rights-of-way and specify enforcement procedures for illegal signs in rights-of-way. Should the County Council, however, decide not to eliminate the limited duration provisions, adoption of the enforcement procedures could be a useful tool in addressing the placement of any illegal sign in the public rights-of-way.

Background/Analysis

Zoning Text Amendment (ZTA) 16-06, would prohibit all non-permanent signs in public rights-of-way and specify enforcement procedures for illegal signs in rights-of-way. Currently, all private temporary signs (a non-permanent sign on display for less than 30 days) in Montgomery County's public rights-of-way are illegal. The current code allows for limited duration signs (a non-permanent sign on display for over 30 days) by permit, but the Department of Permitting Services has no applications or permits on file. In the opinion of the sponsor, the use of public rights-of-way for temporary signs is both a safety hazard and an eyesore. The possibility of a limited duration sign by way of a permit only complicates any enforcement action. Adding enforcement actions in the code will provide notice to potential violators of the consequences of their actions. ZTA 16-06 would delete the entire category of signs called "limited duration signs". Such signs on private property would continue to be allowed as a "temporary sign". Temporary signs would be redefined to be restricted only by the type of material used and not the duration of the sign.

Limited Duration Sign

A limited duration sign is defined as a *non-permanent sign that is:*

- 1. displayed on private property for more than 30 days, but not intended to be displayed for an indefinite period; or*
- 2. within the public right-of-way.*

A limited duration sign is one of several signs permitted in the public right-of-way but requires a sign permit prior to placement. Other signs allowed in the public right-of-way include: a sign erected by a government agency or utility company; a sign erected by the appropriate transportation jurisdiction in its right-of-way; a permanent sign approved by the Sign Review Board; or a sign approved as part of a sign concept plan for an optional method development project located in an urban renewal area.

There also are a number of requirements for locating a limited duration sign in the public right-of-way including:

- The maximum sign area for each sign is 5 square feet.*
- A sign must not be placed on a paved section of the right-of-way, such as a sidewalk, bikeway, driveway apron, emergency lane, or any part of the roadway.*
- A sign must be placed a minimum of 50 feet from any driveway, entrance, or traffic control signal, and a minimum of 5 feet from any other limited duration sign within the public right-of-way.*
- A sign must be placed a minimum of 100 feet from a street intersection.*
- The nearest edge of a sign must be a minimum of 2 feet from a curb or, if no curb exists, a minimum of 6 feet from the edge of the roadway or street.*
- A sign must not be placed on a median strip or highway divider.*
- The maximum height of the sign is 30 inches above the ground.*
- A sign must have its own means of support which is affixed to the ground. The sign installer or permit holder is responsible for satisfying utility restrictions for excavating or driving a support into the ground.*
- A sign must be erected either only on weekends and National Holidays; or for a maximum of 14 consecutive days during any 6-month period.*

By removing this category of sign from the Zoning Ordinance, the aforementioned requirements would no longer be necessary. ZTA 16-06 recommends deleting these and all other standards and references relating to the term “limited duration sign”. Any non-permanent sign will be categorized as a temporary sign and can only be displayed on private property.

Enforcement Procedures- Section 6.7.4.F. Sign in the Public Right-of-Way

ZTA 16-06 provides an enforcement mechanism for prohibited signs located in the public right-of-way (Lines 57-68). The proposed penalties for a violation include any allowable fines or penalty including an injunction against further violations. Staff notes, however, that the enforcement mechanism could be added to the Code even if the proposed deletion of the limited duration provisions are not adopted.

Conclusion

Staff has no objection to ZTA 16-06 but notes that providing enforcement procedures for prohibited signs in the public right-of-way would be beneficial, provided the other proposed measures of the text amendment are not approved

Attachments

1. ZTA No. 16-06 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 16-06
Concerning: Prohibited Signs – Public
Rights-of-Way
Draft No. & Date: 1 – 6/8/16
Introduced: June 21, 2016
Public Hearing:
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**

Lead Sponsor: Councilmember Leventhal

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- delete provisions for limited duration signs;
- revise the provisions concerning temporary signs and prohibited signs;
- add provisions concerning the treatment of prohibited signs in the right of way;
and
- generally amend the provisions for prohibited and temporary signs.

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

DIVISION 59-1.4. “Defined Terms
Section 1.4.2. “Specific Terms and Phrases Defined”
DIVISION 59-6.7. “Signs”
Section 6.7.2. “Applicability”
Section 6.7.4. “Prohibited Signs”
Section 6.7.12. “Temporary Signs”

And deleting:

Section 6.7.11. “Limited Duration Signs”

EXPLANATION: **Boldface** indicates a Heading or a defined term.
Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment or text added by this amendment in addition to ZTA 14-09.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.
* * * 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 59-1.4 is amended as follows:**

2 **DIVISION 1.4. Defined Terms**

3 * * *

4 **Section 1.4.2. Specific Terms and Phrases Defined**

5 * * *

6 **[Sign, Limited Duration:** A non-permanent sign that is:

- 7 1. displayed on private property for more than 30 days, but not intended
8 to be displayed for an indefinite period; or
9 2. within the public right-of-way.]

10 * * *

11 **Sign, Portable:** A sign installed on a support or structure that permits removal or
12 relocation of the sign by pulling, carrying, rolling, or driving, such as a sign with
13 wheels; a menu or sandwich board sign; an inflatable sign; an umbrella, but not a
14 canopy sign, may be a temporary sign [or a limited duration sign], but not a
15 permanent sign. A portable sign includes a sign attached or painted on a vehicle
16 parked and visible from the public right-of-way, unless it is a currently licensed
17 and registered vehicle used in the daily operation of the business. A portable sign
18 does not include a sign on any light or heavy commercial vehicle[, which] that is
19 operated within the public right-of-way.

20 **Sign, Temporary:** A sign that is displayed on private property [for less than 30
21 days and usually] and made of a non-permanent material like canvas, cardboard,
22 paper, or wood.

23
24 **Sec. 2. DIVISION 59-6.7 is amended as follows:**

25 **DIVISION 59-6.7. Signs**

26 * * *

27 **Section 6.7.2. Applicability**

28 A. A property owner must obtain a permit under Division 6.7 before a sign is
29 constructed, erected, moved, enlarged, illuminated, or substantially altered,
30 except for signs covered by Section 6.7.3, Exempt Signs, Section 6.7.11,
31 [Limited Duration signs, and Section 6.7.12,] Temporary Signs.

32 * * *

33 **Section 6.7.4. Prohibited Signs**

34 A sign not authorized in Division 6.7 is prohibited. Except for a sign that is not
35 visible beyond the property lines of the property where the sign is located, the
36 following signs are specifically prohibited and must not be erected or retained. The
37 Sign Review Board must not grant a variance permitting their erection, installation,
38 or maintenance. A prohibited sign must be removed within 24 hours after
39 notification by DPS that the sign must be removed.

40 * * *

41 **F. Sign in the Public Right-of-Way**

42 1. A sign in the right-of-way is prohibited, except for the following:

43 [1] a. A sign erected by a government agency or utility company in
44 the performance of its public duties.

45 [2] b. A sign erected by the appropriate transportation jurisdiction in
46 its right-of-way.

47 [3] c. A permanent sign allowed to be located in the public right-of-
48 way in Division 6.7, if:

49 [a] i. the sign is approved by the Sign Review Board; and

50 [b] ii. the appropriate transportation jurisdiction issues a permit
51 after approving the structural adequacy, physical
52 location, sight distance, pedestrian access, and other
53 safety characteristics of the sign.

54 [4. A limited duration sign that satisfies Division 6.7.

- 55 5. A sign approved as part of a sign concept plan for an optional method
56 development project located in an urban renewal area.]
- 57 2. For the purposes of enforcing this subsection:
- 58 a. each prohibited sign is a violation of this Chapter;
- 59 b. the County may seek any allowable fines or penalty for any
60 violation, including an injunction against further violations;
- 61 c. any prohibited sign may be immediately removed by the
62 County or any agent of the County;
- 63 d. the County will retain any prohibited sign removed from a
64 right-of-way for 48 hours and, thereafter, the County will treat
65 the sign as refuse; and
- 66 e. the County may publish the number of prohibited signs
67 removed with the names of the person, business, product, or
68 organization displayed on the removed signs.

69 Section 6.7.4.F does not affect the authority of the appropriate transportation
70 jurisdiction to regulate signs in its right-of-way or the authority of the
71 Department of Transportation to otherwise regulate the right-of-way. The
72 appropriate transportation jurisdiction or DPS may remove any sign in the
73 public right-of-way that is prohibited under Section 6.7.4.F.

74 * * *

75 **[Section 6.7.11. Limited Duration Signs**

76 **A. Permit Requirements**

- 77 1. A permit is not required for a limited duration sign on private
78 property. A permit application must be approved for each sign to be
79 placed in the public right-of-way.
- 80 2. When a permit is required, a limited duration sign must satisfy the
81 following provisions:

- 82 a. The sign must be constructed in a manner that does not require
- 83 a building or electrical permit.
- 84 b. Each sign approved by a permit must display and have affixed
- 85 to the sign information in a format as required by DPS,
- 86 including the date of expiration of the permit.
- 87 c. A permit is issued for one year and may be renewed annually.
- 88 d. A limited duration sign is allowed in any zone.
- 89 e. A limited duration sign may be relocated upon approval by the
- 90 DPS.]

91 **[B. Permit Applications**

- 92 1. One sign is allowed per permit. An applicant may request up to a
- 93 maximum of 4 permits. DPS may consider each business location as a
- 94 separate applicant; however the sign placement must not create a
- 95 proliferation of signs in that right-of-way, and the applicant may not
- 96 have the ability to use a permanent sign in lieu of a limited duration
- 97 sign. Multiple signs that are similar will not receive a permit for the
- 98 same location within the right-of-way.
- 99 2. An application for a limited duration sign permit must include:
- 100 a. A description of the sign indicating the, size, shape,
- 101 dimensions, and colors of the sign, and the time and day of the
- 102 week during which the sign will be displayed;
- 103 b. A drawing of the site or a schematic of the area showing the
- 104 proposed location of the sign in relation to nearby buildings and
- 105 streets;
- 106 c. The number of signs on the site; and

107 d. Other information required by DPS to confirm the limited
108 duration sign satisfies Division 6.7 and other Sections of the
109 Chapter.]

110 **[C. General Requirements for Limited Duration Signs on Private Property**

111 1. The number of signs, area and placement restrictions allowed are the
112 same as for a temporary sign in the zone in which the sign is erected;
113 however, in Residential zones, the maximum sign area of all limited
114 duration signs on a lot or parcel is 10 square feet.
115 2. A sign erected on private property must have the written permission
116 of the property owner.]

117 **[D. Requirements for Limited Duration Sign in the Public Right-of-Way**

118 1. The maximum sign area for each sign is 5 square feet.
119 2. A sign must not be placed on a paved section of the right-of-way, such
120 as a sidewalk, bikeway, driveway apron, emergency lane, or any part
121 of the roadway.
122 3. A sign must be placed a minimum of 50 feet from any driveway,
123 entrance, or traffic control signal, and a minimum of 5 feet from any
124 other limited duration sign within the public right-of-way.
125 4. A sign must be placed a minimum of 100 feet from a street
126 intersection.
127 5. The nearest edge of a sign must be a minimum of 2 feet from a curb
128 or, if no curb exists, a minimum of 6 feet from the edge of the
129 roadway or street.
130 6. A sign must not be placed on a median strip or highway divider.
131 7. The maximum height of the sign is 30 inches above the ground.
132 8. A sign must have its own means of support which is affixed to the
133 ground. The sign installer or permit holder is responsible for

134 satisfying utility restrictions for excavating or driving a support into
135 the ground.

136 9. A sign must be erected either only on weekends and National
137 Holidays; or for a maximum of 14 consecutive days during any 6-
138 month period.]

139 **Section [6.7.12] 6.7.11. Temporary Signs**

140 A. Generally

141 A permit is not required for a temporary sign, and the number of temporary
142 signs that may be displayed is not limited.

143 1. The sign area of a temporary sign is determined by the zone in which
144 the sign is placed, and is in addition to the area allowed for a
145 permanent sign [or a limited duration sign]. All other aspects of the
146 sign, such as location and height, must satisfy the standards for a
147 permanent sign in the zone.

148 2. The date of erection of a temporary sign must be written in indelible
149 ink on the lower right corner of the sign. A sign without this
150 information is a permanent [or limited duration] sign under Division
151 6.7.

152 * * *

153 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after
154 approval.

155

156 This is a correct copy of Council action.

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158 _____

159 Linda M. Lauer, Clerk of the Council