

Key

Red underlined text provides either the section reference or a use name change in the draft

Text with ~~red strikethrough~~ has not been included in the draft Zoning Code

3/15/2013

Article 59-A-1 In General.

Division 59-A-1. Purpose and Applicability.

Sec. 59-A-1.1. Purpose of chapter.

The zoning regulations set out in this chapter for that portion of the Maryland-Washington Regional District in the county are hereby adopted for the purpose of protecting and promoting the health, safety, morals, comfort and welfare of the present and future inhabitants of the district and shall constitute the zoning ordinance text. Sec. 1.2.1.A

Sec. 59-A-1.2. Nonapplicability to certain municipalities.

This chapter shall not apply to the municipal corporations of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg and Washington Grove. Sec. 1.3.2

Sec. 59-A-1.3. Violations, penalties, and enforcement.

(a) Any violation of this Chapter may be punished as provided in State law. Sec. 8.8.1.A Violations, Penalties, and Enforcement

(b) In addition to all other remedies provided by law, any violation of this Chapter may, as an alternative, be punished by a civil fine equal to the maximum allowed by Article 28 § 7-116(h) of the Maryland Code as amended and any penalty allowed by regulation adopted under method 2. Each day a violation continues is a separate offense. Sec. 8.8.1.B. Violations, Penalties, and Enforcement

(c) In addition to any other remedy provided by law, any violation of a Planning Board Action, as defined in Section 50-41, may be enforced under subsection (b) or under Section 50-41, at the discretion of the Planning Board. Sec. 8.6.3.B.1. Planning Board Powers

(d) The Planning Board may assign a hearing officer designated by the Planning Board, including a Hearing Examiner from the Office of Zoning and Administrative Hearings, to conduct a public hearing and submit a report and recommendation on any alleged violation of this Chapter or any other Planning Board Action as defined in Section 50-41. The hearing officer must submit the required report and recommendation to the Planning Board not later than 60 days after the hearing record closes, but the hearing officer may by order extend the time to file the report. Sec. 8.6.3.B.2. Planning Board Powers

Sec. 59-A-1.4. Adoption of maps.

The set of maps entitled, "Amendment to the Zoning Map for Portions of the Maryland-Washington Regional District in Montgomery County, Maryland," dated May 31, 1958, as to all that area formerly in the Upper

Montgomery County Planning District, is hereby adopted as the zoning maps for such area and made a part of this chapter. The zoning map, with all amendments thereto, in force on May 31, 1958, for the district as such district was constituted prior to June 1, 1957, is hereby adopted as the zoning map for that portion of the district and made a part of this chapter. The maps adopted in this section shall henceforth be known as the "Zoning Map for the Maryland-Washington Regional District in Montgomery County, Maryland." [Sec. 2.4.1.A. Adoption of map \(with modifications\)](#)

Sec. 59-A-1.5. Location and boundaries of zones.

The location and boundaries of zones established in the district shall be as shown on a set of maps, entitled "Zoning Map of the Maryland-Washington Regional District in Montgomery County, Maryland," dated May 31, 1958, and as the same may be amended subsequent to the adoption thereof; and such maps, sections or portions thereof, together with all notations, dimensions, designations, references and other data shown thereon, are made a part of this chapter to the same extent as if the information set forth on such maps were fully described and incorporated herein. [Sec. 2.4.2. Location and Boundaries of Zones \(with modifications\)](#)

Sec. 59-A-1.6. Uncertainty as to boundaries of zones.

Where uncertainty exists as to the boundaries of any of the zones established in this chapter, as shown on the zoning map, the following rules shall apply:

- (a) Zone boundary lines are intended to follow street, alley or lot lines or lines parallel or perpendicular thereto, unless such zone boundary lines are otherwise identified on the zoning map.
- (b) Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines such lines shall be construed to be such boundaries.
- (c) Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 10 feet distant therefrom, such lot lines shall be such boundaries.
- (d) In unsubdivided property, or where a zone boundary divides a lot, the location of any such boundary, unless the same is identified on such maps, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot. [Sec. 2.4.3. Zone Boundary Interpretation](#)

Sec. 59-A-1.7. Zoning and development within rights-of-way.

59-A-1.71. Zoning of public rights-of-way.

- (a) Normally, all publicly owned rights-of-way for roads, streets, alleys, easements, or transit routes are classified in the least intense of adjacent zones. In order to define clearly the location of rights-of-way, the official zoning maps will not depict the zoning within existing rights-of-way.
- (b) When an approved and adopted master or sector plan recommends zoning that is different from that specified in subsection (a) above for a publicly owned right-of-way for a road, street, alley, easement, or transit route, the district council may reclassify such right-of-way to the recommended zoning by the approval of a sectional map amendment or a local map amendment application. The official zoning maps will depict the zoning within such rights-of-way. [Sec. 2.4.4.A.](#)

59-A-1.72. Rezoning of proposed rights-of-way where zoning was previously withheld.

Where, by action of the district council in prior zoning map amendments, private property was withheld from rezoning in order to provide for future construction, widening, realignment, and relocation of proposed public roads, streets, alleys, easements, or transit routes or facilities, the zoning of such private properties shall assume the zoning

classification of the land of which they are a part; or, the least intense of adjacent zones if the land is not part of an adjacent parcel. Nothing contained herein shall affect or preclude the application of permit control procedures of section 59-A-5.6 pertaining to proposed buildings and structures within planned highways and rapid transit lines. Sec. 2.4.4.A.3.

59-A-1.73. Air rights development and subsurface development within public rights-of- way.

Air rights development and subsurface rights development are permitted in publicly owned rights-of-way for roads, streets, alleys, easements, and rapid transit routes if all of the following provisions are satisfied:

(a) The development will not conflict with the recommendations and guidelines of the applicable approved and adopted master or sector plan.

(b) Site plan approval, not otherwise required by the zoning ordinance, is not required for air rights development and subsurface rights development in publicly owned rights-of-way for transit routes located within central business districts as defined in section 59-C-6.12 when the board finds that such development rights have been held in private ownership continuously since July 7, 1986, and that the proposed development will preserve the integrity of the right-of-way for its intended public use.

(c) The right-of-way is recorded on a record plat approved after July 7, 1986. Sec. 2.4.4.B

59-A-1.74. Zoning of privately owned railroad rights-of-way.

(a) All privately owned railroad rights-of-way are classified in zones as specified below, except as otherwise reclassified by the district council:

(1) Where adjacent land is classified in residential or agricultural zones, the right-of- way is classified in the least intense of adjacent zones.

(2) Where adjacent land on one side is classified in a residential or agricultural zone, and the adjacent land on the other side is classified in a nonresidential or nonagricultural zone, the right-of-way is classified in the adjacent residential or agricultural zone.

(3) Where adjacent land on both sides of the right-of-way is classified in other than residential or agricultural zones, the adjacent zoning on each side shall extend to the center line of the right-of-way.

(b) In order to clearly define the location of privately owned railroad rights-of-way, zoning is not normally depicted within such rights-of-way. However, zoning is depicted within such rights-of-way where zoning other than indicated in subsection (1), (2) or (3) of section (a) above has been approved by the district council. Sec. 2.4.4.C

Sec. 59-A-1.8. Annexation of additional area to regional district.

Any area annexed to the Maryland-Washington Regional District after June 1, 1958, shall immediately upon such annexation, be automatically classified in the most nearly comparable zone until a zoning map amendment for such area has been adopted by the district council. The commission shall recommend to the district council appropriate zoning for the annexed area within 6 months after the effective date of such annexation. Sec. 1.3.3.A

Sec. 59-A-1.9. July 1, 1997 annexation of additional area to Montgomery County.

~~—(a)— This Section applies to the area of the City of Takoma Park annexed into Montgomery County on July 1, 1997 (the "Annexation Area").~~

~~—(b)—After March 30, 1997, any person may apply for zoning or development approval for property within the Annexation Area as if the property were already within Montgomery County. Any agency, board or other governmental entity must accept, review and process any zoning or development application as if the property were already within Montgomery County; however, final approval of the application must not occur before July 1, 1997.~~

~~—(c)—After July 1, 1997 final approval of a zoning or development application within the Annexation Area may be based upon a preliminary approval made before July 1, 1997 under the zoning and development standards of Prince George's County, if the approving body finds that the earlier Prince George's County approval fulfills substantially the same purpose as and offers substantially the same protection as its Montgomery County counterpart.~~

Sec. 59-A-1.10. Fees.

The director may establish fees, if approved by Council resolution, to cover the cost of administration of this chapter. Sec. 8.6.5. Fees