

Key

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

Text highlighted in turquoise deals with grandfathering language and will be addressed in the coming months

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

3/18/13

Division 59-C-18. Overlay Zones.

Sec. 59-C-18.1. Purpose and general provisions.

See sec. 2.2.7.A – Overlay Zones – In General

Overlay Zones are created in areas of critical public interest. An overlay zone provides regulations and standards that are necessary to achieve the planning goals and objectives for development or redevelopment of an area. Overlay zones provide uniform comprehensive development regulations for an area.

Sec. 59-C-18.2. Where applicable.

See sec. 4.8.1.A - Applicability

Land must not be designated as an overlay zone unless the land is recommended for an overlay zone on a master or sector plan. The applicable master or sector plan must recommend boundaries of the overlay zone, and the goals and objectives for the development and use of land within the overlay zone.

Sec. 59-C-18.3. Designation of overlay zones on the zoning map.

See sec. 4.8.1.A - Applicability

In designating an overlay zone on the zoning map, the District Council must follow the applicable procedures of [Article 59-H](#) for processing and approving sectional and district map amendments.

Sec. 59-C-18.4. Development procedure.

See Sec. 4.8.1.B – Standards and Requirements

Development in an overlay zone must conform with the standards and requirements of the underlying zone, except as specifically modified by the standards and regulations of the overlay zone. Where there is an ambiguity as to whether the regulations of the underlying zone or overlay zone apply, the regulations of the overlay zone apply. A site plan must be submitted under Division [59-D-3](#) except where specifically exempted in the development standards of each overlay zone.

~~Secs. 59-C-18.5-59-C-18.9. Reserved.~~

Sec. 59-C-18.10. Retail preservation overlay zone for the Wheaton Central Business District. The Wheaton Overlay was removed from the zoning map as a part of the 2011 Sector Plan. It was not deleted from the text of the zoning ordinance at that time.

~~59-C-18.101. Purpose.~~

~~It is the purpose of this overlay zone to:~~

- ~~—(a)—Retain a mix of retail and service uses within the Wheaton Central Business District.~~
- ~~—(b)—Retain a variety of small businesses, retail uses and services in the Wheaton Central Business District and encourage new businesses to meet the needs of workers, shoppers, visitors and residents.~~
- ~~—(c)—Encourage building designs compatible with the existing character of street level uses found within and adjacent to the overlay zone.~~
- ~~—(d)—Encourage higher density, mixed-use, transit-oriented development located in close proximity to the Wheaton Transit Station, with an emphasis on housing, office uses, commercial services, and arts and entertainment establishments.~~
- ~~—(e)—Encourage both standard method of development and optional method of development projects to include small, street level businesses to help retain a small business identity.~~

~~59-C-18.102. Regulations.~~

~~—(a)—**Optional method of development.** The optional method of development procedure may be used if authorized in the underlying zone. However, an optional method of development project is not required to have a minimum lot area. Use of the optional method of development procedure is intended to promote higher density mixed-use development in close proximity to the Wheaton Metro Station and to revitalize and retain the existing retail area in Wheaton as a major marketplace.~~

~~—(1)—**Optional Method of Development Standards.**~~

~~—(A)—The maximum height for any CBD-2 or CBD-3 zoned optional method of development project is 125 feet. However, the maximum building height for any CBD-2 east of Fern Street is 100 feet.~~

~~—(B)—Any optional method of development project must provide at least 45 percent of the street level space for use by businesses with less than 3,000 square feet of gross floor space and restaurants with less than 5,000 square feet of gross floor space. The street level space must be so restricted for a period of six years after the issuance of the initial use and occupancy permit for the street level space. The six year time period is binding upon future owners and successors~~

~~in title and must be stated as a condition of any site plan approved by the Planning Board. Before a building permit is submitted for approval in conformance to an approved optional method project, the applicant must file a covenant in the land records of Montgomery County, Maryland that reflects the restrictions on the street level space.~~

~~————(C)—— At least one half of the public use space required under 59 C 6.233 must be green area excluding sidewalks, walkways, swimming pools and other hardscapes, that will serve as an amenity for the development.~~

~~————(D)—— The Planning Board may require street facade treatment. Minimum requirements may be established by Planning Board guidelines that implement the recommendations of the sector plan.~~

~~——(b)—— **Standard Method of Development**~~

~~————(1)—— For any standard method of development project that provides at least 30 percent of the street level floor space for use by businesses with less than 3,000 square feet of gross floor space and restaurants with less than 5,000 square feet of gross floor space, 30 percent of the street level floor space may be in addition to the maximum FAR calculation allowed under the base zone. Street level space provided must be so restricted for a period of six years after the issuance of the initial use and occupancy permit for street level space. The six year time period is binding upon future owners and successors in title and must be stated as a condition in any site plan approved by the Planning Board. Before a building permit is submitted for approval in conformance to an approved optional method project, the applicant must file a covenant in the land records of Montgomery County, Maryland that reflects the restrictions on the street level space.~~

~~————(2)—— Any standard method project for a building existing as of July 1, 2006 with a building coverage not exceeding 85% and that provides street level space for use by businesses with less than 3,000 square feet of gross floor space and restaurants with less than 5,000 square feet of gross floor space, in the amounts and with the restrictions required in subsection (1) above, shall be a conforming use provided the building coverage is not increased.~~

~~————(3)—— As part of the approval of a site plan for a standard method of development project, the Planning Board may allow any public use space requirement under Sec. 59 C 6.233 that is less than 1,800 square feet to be provided off site within the Wheaton Central Business District as either public use space or streetscape, on a one-for-one square foot basis.~~

~~——(b)—— **Land uses.** All permitted and special exception uses allowed under the standard method of development and the optional method of development of the underlying CBD Zone, are allowed in the Wheaton CBD overlay zone, except that:~~

~~————(1)—— In any building constructed after July 16, 1990, the street level leasable space must be used only for the following purposes:~~

- ~~—— (A) — hotel~~
- ~~—— (B) — any of the commercial uses allowed under 59-C-6.22(d);~~
- ~~—— (C) — the following service uses allowed under 59-C-6.22(e):~~
 - ~~—— appliance repair shop;~~
 - ~~—— banking and financial institution;~~
 - ~~—— barber and beauty shop;~~
 - ~~—— child day care facility;~~
 - ~~—— clinic~~
 - ~~—— dry cleaning and laundry pickup station;~~
 - ~~—— duplicating service;~~
 - ~~—— educational institution, private~~
 - ~~—— health club~~
 - ~~—— photographic studio;~~
 - ~~—— self-service laundromat;~~
 - ~~—— shoe repair shop;~~
 - ~~—— tailoring or dressmaking shop; or~~
- ~~—— (D) — all cultural, entertainment and recreational uses allowed under 59-C-6.22(f) as well as art galleries which are permitted as specialty shops under 59-C-6.22(d).~~

~~—— (2) — In any new buildings constructed after July 16, 1990, all street level uses must be directly accessible from a sidewalk, plaza, or other public space.~~

~~—— **59-C-18.103. Procedure for application and approval.**~~

~~—— (a) — **Standard Method of Development:** Development subject to site plan approval under Division 59-D-3 is limited to the following:~~

~~—— (1) — construction of new buildings that include more than 20,000 square feet of floor area or exceed 42 feet in height; and~~

~~—— (2) — additions and other exterior improvements to existing buildings that cumulatively increase the total amount of floor area on a site to more than 20,000 square feet or increase the building height to more than 42 feet.~~

~~—— (b) — **Optional Method of Development:**~~

~~—— (1) — For projects that are subject to subdivision or resubdivision under Chapter 50, a Division 59-D-2 Project Plan is not required. In order to approve the preliminary plan of subdivision, the Planning Board must find that the proposed subdivision will meet the requirements of 59-D-2.42 and 59-D-2.43, however nothing in the Wheaton and Vicinity Sector Plan will prohibit the use of optional method of development approval.~~

~~—— (2) — For projects that are not subject to subdivision or resubdivision, under Chapter 50, a project plan must be submitted and approved in accordance with Division 59-D-2.~~

~~—(3)— For any optional method of development proposal in the Wheaton Retail Preservation Overlay Zone, a Division 59-D-3 Site Plan must be submitted and approved by the Planning Board, in accordance with the provisions of Division 59-D-3.~~

~~—59-C-18.104. Site plan contents and exemptions.~~

~~—(a)— Sections 59-D-3.22 and 59-D-3.23 do not apply in the Wheaton CBD overlay zone for standard method of development projects that require site plan approval.~~

~~—(b)— A site plan for a standard method of development project in the Wheaton CBD overlay zone must include:~~

~~—(1)— the location, height, ground coverage, and use of all structures;~~

~~—(2)— for each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes;~~

~~—(3)— the floor areas of all nonresidential buildings and the proposed use of each;~~

~~—(4)— the location of recreational and green areas and other open spaces;~~

~~—(5)— calculations of building coverage, density, green area, number of parking spaces, and areas of land use;~~

~~—(6)— the location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks;~~

~~—(7)— a landscaping plan (or final forest conservation plan, if required under Chapter 22A), showing all man-made features and the location, height or caliper, and species of all plant materials;~~

~~—(8)— an exterior lighting plan, including all parking areas, driveways and pedestrian ways, alleys, building security lights, and the height, number, and type of fixtures with a diagram showing their light distribution characteristics; and~~

~~—(9)— a development program with the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping, and recreational facilities are to be developed. The applicant must designate the point in the development program sequence when the applicant will ask the Planning Board to inspect for compliance with the approved site plan.~~

~~—59-C-18.105. Approval Requirements for All Projects in the Wheaton Retail Preservation Overlay Zone.~~

~~—(a)— At least 50 percent of the street level exterior wall area, fronting on sidewalks, plazas, or other public open spaces, must contain windows and apertures.~~

~~—(b)—A project for the construction of a new building that includes more than 15,000 square feet of gross floor area, or that cumulatively increases the total amount of gross floor area on a site to more than 15,000 square feet, must provide streetscaping in accordance with the Wheaton Central Business District Streetscape Standards. The required streetscape must be provided before the issuance of the final use and occupancy permit by the Department of Permitting Services.~~

Sec. 59-C-18.11. Residential and open space preservation overlay zone for the Town of Garrett Park.

See Sec. 4.8.4.B – Neighborhood Protection – Garrett Park (NP-GP) Overlay Zone

Sec. 59-C-18.111. Purpose.

See Sec. 4.8.4.B.1 – Purpose

It is the purpose of this overlay zone to:

- (a) Preserve the unique park-like setting of the 19th century garden suburb, maintain the prevailing pattern of houses and open spaces, and retain the maximum amount of green area surrounding new or expanded houses.
- (b) Encourage a compatible relationship between new or expanded houses and neighboring structures in scale, siting, and orientation on the lot.
- (c) Maintain housing diversity and choice by retaining existing housing stock yet allowing a reasonable amount of expansion in living space.
- (d) Create a uniform set of development standards in order to resolve the multiplicity of standards that currently apply to lots in Garrett Park.

59-C-18.112. Exemptions from control.

See Sec. 4.8.4.B.2 - Exemptions

(a) Buildable lot under previous ordinance:

~~(1) The development standards of the overlay zone apply in lieu of the standards in effect at the time a lot was created. For lots within the overlay district, the language of the overlay zone supersedes all but the first sentence of Sec. 59-B-5.1, which reads as follows:~~

“Any lot that was legally recorded by deed or subdivision plat before June 1, 1958, and that was a buildable lot under the law in effect immediately before June 1, 1958, is a buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone.”

(2) Any lot that was legally recorded by deed or subdivision plat between June 1, 1958 and August 4, 1964 and that was a buildable lot under the law in effect during that period is a

buildable lot for building a one-family dwelling only, even though the lot may have less than the minimum area for any residential zone.

(b) **One-family dwelling:**

(1) ~~The development standards of the overlay zone apply to alterations, renovations and enlargements of existing one-family dwellings as well as to new construction. For structures within the overlay district, the language of the overlay zone supersedes all but the first sentence of Sec. 59-B-5.3, which reads as follows:~~

“Any one-family dwelling in a residential zone or agricultural zone that was built on a lot legally recorded by deed or subdivision plat before June 1, 1958 is not a nonconforming building.”

(2) Any one-family dwelling in the overlay district that was built on a lot legally recorded by deed or subdivision plat between June 1, 1958 and March 29, 1993 is not a nonconforming building.

(3) Reconstruction of such a building may not exceed the footprint or floor area of the prior dwelling unless reconstruction fully conforms with the standards of the overlay zone.

59-C-18.113. Regulations.

(a) **Development Standards:** The development standards are the same as those in the R-90 zone, except as set forth below: [Sec. 4.8.4.B.4](#)

(1) **Setback from street.** No main building may be nearer to any street than 30 feet, and if the adjoining lots are occupied by buildings with a front yard setback greater than this requirement, no building hereafter erected or any addition to an existing building can project beyond the line previously established by the buildings on the adjoining lots. A front porch added to a main building existing as of February 15, 2000 may extend up to eight feet into the minimum front yard setback. Any front porch extending into the minimum front yard setback, under this provision, may be covered, but not enclosed.

(2) In the case of a corner lot, if the adjoining lot on one of the streets either does not front on that street or is in a nonresidential zone, the setback from that street must be at least 15 feet.

(3) **Setback from adjoining lot.** No main building can be nearer to any property line than the following:

Side:

— one side: 10 feet

— sum of both sides: 25 feet for lots with over 60 feet in width at the building line, and 20 feet for lots with 60 feet or less in width at the building line.

Rear: 25 feet for lots over 90 feet in depth and 15 feet for lots with 90 feet or less in depth.

(4) **Coverage.** Maximum percentage of net lot area that may be covered by buildings, including accessory buildings, is 20 percent.

(5) **Floor Area Ratio.** The maximum floor area ratio for main plus accessory buildings is .375.

(6) An accessory building or structure must be located in the rear yard and:

-must not occupy more than 25 percent of the rear yard on lots with a total lot area smaller than 8,600 square feet; or,

-must not occupy more than 20% of the rear yard of a lot on lots with a total lot area 8,600 square feet or larger.

(b) **Site Plan:** [Sec. 4.8.4.B.5](#)

(1) A site plan is not required in the Garrett Park overlay zone except as provided in Section [59-C-1.327](#), Maximum Building Height (in feet).

Sec. 59-C-18.12. Retail preservation overlay zone for the Arlington Road District of the Bethesda Central Business District Sector Plan. [The standards of this overlay zone were captured using the density caps in the CRT zone.](#)

~~—59-C-18.121. Purpose.~~

~~It is the purpose of this overlay zone to:~~

~~—(a)—Retain the existing scale of development and mix of retail and service uses within the Arlington Road District of the Bethesda Central Business District Sector Plan.~~

~~—(b)—Regulate development to preserve a variety of retail uses and services consistent with the neighborhood-serving nature of existing development in the Arlington Road District.~~

~~—(c)—Encourage commercial development that is compatible with existing buildings within and adjacent to the overlay zone.~~

~~—59-C-18.122. Regulations.~~

~~—(a)—Land uses. All permitted or special exception uses allowed in the underlying C-2 Zone are allowed in the Arlington Road District overlay zone.~~

~~—(b)— **Development Standards.** The standards of development must comply with the standards of the underlying C-2 zone as set forth in Section 59-C-4.35 of this Ordinance with the exception of Section 59-C-4.352. For any building in the overlay zone, the gross floor area cannot exceed FAR 0.5. In new buildings built after July 14, 1994, all retail uses must be directly accessible from a sidewalk, plaza, or other public space.~~

~~—**59-C-18.123. Procedure for application and approval.**~~

~~A site plan for any development in the Arlington Road District overlay zone must be approved under the provisions of Division 59-D-3. Development includes the following:~~

~~—(a)— construction of new buildings;~~

~~—(b)— additions and other exterior improvements to existing buildings that increase the amount of development floor area on a site; and~~

~~—(c)— addition of off-street parking spaces or revisions to parking facilities that require the approval of a new parking facilities plan under Section 59-E-4.1.~~

~~—**59-C-18.124. Site plan contents and exemptions.**~~

~~—(a)— Sections 59-D-3.22 and 59-D-3.23 do not apply in the Arlington Road District overlay zone.~~

~~—(b)— A site plan for development in the Arlington Road District overlay zone must include:~~

~~—(1)— the location, height, ground coverage, and use of all structures;~~

~~—(2)— for each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes;~~

~~—(3)— the floor areas of all nonresidential buildings and the proposed use of each;~~

~~—(4)— the location of recreational and green areas and other open spaces;~~

~~—(5)— calculations of building coverage, density, green area, number of parking spaces and areas of land use;~~

~~—(6)— the location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks;~~

~~—(7)— a landscaping plan (or final forest conservation plan, if required under Chapter 22A), showing all man-made features and the location, height, or caliper, and species of all plant materials;~~

~~—(8)— an exterior lighting plan, including all parking areas, driveways and pedestrian ways, and the height, number, and type of fixtures with a diagram showing their light distribution characteristics; and~~

~~—(9)— a development program with the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping, and recreational facilities are to be developed. The applicant must designate the point in the development program sequence when the applicant will ask the Planning Board to inspect for compliance with the approved site plan.~~

~~—59-C-18.125. Planning Board approval.~~

~~—(a)— The Board must find that all retail uses proposed in new buildings must be directly accessible from a sidewalk, plaza, or other public space before approving a site plan for the Arlington Road District overlay zone.~~

~~—(b)— The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following findings:~~

~~—(1)— the site plan does not conflict with the recommendations in the Bethesda Central Business District Sector Plan;~~

~~—(2)— the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and~~

~~—(3)— each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.~~

~~(Ord. No. 12-63, § 1.)~~

Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan. This overlay zone is currently under review as part of the White Oak Science Gateway Master Plan process.

59-C-18.131. Purpose.

The purpose of this overlay zone is to:

(a) Develop a compatible mix of office, regional commercial, and light industrial uses within a designated employment area.

(b) Establish a uniform set of development standards for the zone.

(c) Allow local and regional retail and service uses.

(d) Encourage the use of appropriate traffic-limiting measures, where such measures are not already in place, such as car pools and use of mass transit.

(e) Eliminate uses not considered compatible with the intent of this overlay zone.

59-C-18.132. Regulations.

(a) **Land uses.**

(1) The following uses are permitted in the U.S. 29/Cherry Hill Road Employment Area overlay zone:

(A) All permitted and special exception uses allowed in the underlying zones are allowed in the U.S. 29/Cherry Hill Road Employment Area overlay zone, except as specifically modified and set forth in this overlay zone.

(i) The following additional retail commercial uses are permitted:

Beauty supply stores.

Computer and computer supply stores.

Electronics stores.

Express or mailing offices.

Food and beverage stores.

Music stores.

Office supply stores.

Pet supply stores.

Shoe stores.

Theaters, indoor.

(ii) The following additional commercial uses are permitted:

Eating and drinking establishment, excluding a drive-in

Delicatessen

Cafeteria

Snack Bar

Ice Cream Parlor

(iii) The following additional cultural, entertainment or recreational use is permitted:

Tennis club.

(iv) The following additional manufacturing and industrial, service, and transportation/communication/utility uses are permitted where the underlying base zone is I-2:

Research, development and related activities, including the particular uses listed below, but excluding any prohibited uses under Section [59-C-18.132\(a\)\(2\)](#):

(a) Manufacturing, compounding, processing or packaging of products resulting from biotechnical and biogenetic research and development.

(b) Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment.

(c) Manufacturing of yeasts, molds, and other natural products necessary for medical and biotechnical research and development.

(d) Telephone offices, communication and telecommunication centers.

(e) Corporate, administrative or business offices for companies principally engaged in health services, research and development or high technology industrial activities.

(f) Laboratories.

(g) Universities and colleges providing teaching and research facilities.

(h) Libraries, scientific or technical.

(2) The following uses are prohibited in the U.S. 29/Cherry Hill Road Employment Area overlay zone:

Adult entertainment business.

Automobile parts, sales and services, including but not limited to tire sales and transmission service.

Automobile repair and service.¹

Automobile sales, indoors and outdoors.¹

Bakery.

Blacksmith shops and machinery shops.

Billiard parlors.

Boat sales, indoors and outdoors.

Bottling plant.

Bowling alleys.

Building materials and supplies, except where the underlying zone is I-1.

Carpet sales.

Confectionery production.

Contractor's storage yards, except as an accessory use.

Convenience food and beverage.

Country inns.

Dry cleaning plants.

Electroplating and manufacturing of small parts such as coils, condensers, transformers, and crystal holders.

Fairgrounds, circuses and amusement parks.

Farm implements, storage and sale.

Feed and grain storage and sales.

Food production, packaging, packing and canning of.

Fuel storage yards.

Garden supply shops.

Heavy equipment, sales and services.

Health clubs.

Ice manufacturing and storage.

Laundry plants.

Liquor stores.

Manufacturing of light sheet metal products.

Manufacturing, compounding, assembling or treatment of articles from the following previously prepared materials; bone, cellophane, plastic, canvas, cloth, cork, feathers, felt, fiber, fur, hair, horn, leather, textiles, yarns, glass, precious or semi-precious metals or stones, and tobacco.

Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development except, products resulting from biotechnical and biogenetic research and development are permitted where the underlying base zone is I-2.

Manufacturing, fabrication and/or subassembly of aircraft parts, components, and equipment.

Manufacturing of musical instruments toys, novelties, and rubber and metal stamps.

Manufacturing of paint not employing a boiling or rendering process.

Manufacturing of pottery and figurines or other products using previously pulverized clay and kilns fired only by electricity or gas.

Mobil home sales.

Paper products manufacturing.

Roller and ice skating rinks.

Sawmills.

Stadiums or arenas.

Stoneworks.

Swimming pools, commercial.

Tinsmith and roofing services.

Tire, battery and accessory store.

Wholesale trades limited to sale or rental of products intended for industrial or commercial users.

Wood products manufacturing.

¹ These uses are permitted on any property improved before May 5, 2011 for the use of automobile repair, service, sales, or storage. Automobile repair, service, sales, or related office, automobile parking, or automobile storage use may be built, rebuilt, repaired, or expanded on these properties under the standards and procedures of the property's underlying zone.

(b) **Development standards.** Development will proceed under the standards of the underlying zones except as modified by the provisions of this overlay zone.

(1) **Setbacks.**

(A) Where the overlay zone adjoins, or is separated only by a public road from residentially zoned land that is recommended for residential use and development in the Fairland Master Plan, all buildings must be set back at least 100 feet from such residential land. All parking and maneuvering areas must be set back at least 50 feet from such residential land and be appropriately screened from such adjoining uses.

(B) Any building that devotes 50 percent or more of its gross floor area to a retail commercial use must be located at least 200 feet from the boundary of the overlay zone, unless a waiver is granted by the Planning Board. The 200 foot building setback requirement must not be reduced below 150 feet. The parking and maneuvering areas for such a building must be located at least 100 feet from the boundary of the overlay zone. A setback is not required from lot lines, zoning lines, utility rights-of-way or road rights-of-way within this overlay zone.

(C) Where the overlay zone adjoins residentially zoned land that adjoins US 29 or a service road that adjoins US 29, and the residentially zoned land is not used or recommended for residential use and development in the Fairland Master Plan, the following setback and screening requirements apply:

(i) A setback is not required from the overlay zone boundary; however, notwithstanding the preceding sub-paragraph (B) above, buildings and parking areas must be setback at least 50 feet from US 29 or a service road that adjoins US 29, and

(ii) Screening and landscaping requirements must be established by the Planning Board through site plan review. The parking facility setback and screening requirements of Section [59-E-2.81](#) and [59-E-2.9](#) do not apply.

(2) **Retail commercial area.**

(A) Where the underlying base zone is other than the C-6 Zone:

(i) the cumulative square footage of retail commercial uses permitted on land classified in each particular base zone within the boundaries of the overlay zone must not exceed a total of 50,000¹ gross square feet; and

(ii) development of retail commercial use cannot exceed 15,000¹ square feet on any individual lot; and

(iii) no single tenant free-standing structure that devotes 50 percent or more of its gross floor area to a retail commercial use may exceed a total of 10,000 gross square feet.

¹ Any square footage devoted to an eating and drinking establishment use, excluding a drive-in, is in addition to this amount.

(B) Subsection (A) also applies where the underlying base zone is C-6, and when development occurs pursuant to Section [59-C-18.132\(b\)\(6\)\(B\)](#).

(3) **Height limit.** A retail building must not exceed 40 feet in height, excluding parapets.

(4) **Coverage limitation.** Where the underlying base zone is other than C-6, the coverage standards for principally retail buildings will be as follows:

(A) Green area must encompass at least 35 percent of the lot area.

(B) Off-street parking is not allowed to occupy more than 45 percent of the lot area, except that in unusual circumstances the Planning Board may waive this requirement at the time of site plan approval upon a finding that a more compatible arrangement of uses would result.

(5) **Office development.** Where the underlying base zone is C-6, office uses must be developed pursuant to the following standards, except that no setback is required from lot lines, zoning lines, utility rights-of-way or road rights-of-way within the overlay zone:

(A) **Building height.** No building can exceed a height of 100 feet.

(B) **Coverage limitations.** (Percent of gross tract area)

—Green area shall be provided for not less than: 35

—Off-street parking is not allowed to occupy more than 45¹

¹ 100 feet from interchange ramp for buildings and 50 feet from interchange ramp for parking. The setback for parking structures may be reduced below 200 feet but not below 100 feet upon approval by the Planning Board.

(C) Setbacks from the boundary of the overlay zone.

All buildings, off-street parking, loading and maneuvering areas must be set back from lot lines in accordance with the standards shown in the following schedule:

	Buildings	Parking, Loading Areas
(1) From abutting residentially zoned property:		
—Recommended for one-family zoning and development on the applicable master plan.	200'	200'
—Recommended for residential zoning and development, other than one-family, on applicable master plan.	100'	100'
—Recommended for nonresidential development in the I-3 or R&D zone on the applicable master plan.	20'	20'
However, if proposed building is more than 40 feet in height then 1 foot of additional building setback for each 2 feet of height:	1:2	20'
—Recommended for non-residential development in a commercial or industrial zone other than I-3 or R&D on the applicable master plan.	25'	25'
—Developed with nonresidential uses, including off-street parking.	50'	50'
If the abutting residentially zoned property is developed with residential uses, the Planning Board may require greater than the minimum setback, not to exceed 200 feet, to achieve compatibility between the residential development and the proposed industrial development.		
(2) From abutting commercial or industrial zoning other than the I-3 or R&D zones:	25'	25'
(3) From an abutting lot classified in the I-3 or R&D zones:	20'	20'
—If proposed building is more than 40 feet in height then one foot of additional building setback for each 2 feet of height.	1:2	20'
(4) From the following roadways as shown on the		

approved and adopted master plan:		
—an existing or planned limited access freeway. ¹	200'	100'
—a major highway in the I-3 zone	100'	100'
—a major highway in the R&D zone	50'	50'
—an arterial road separating the I-3 and R&D zones from:		
—existing one-family residential zoning and development	100'	50'
—residential zoning or development other than one-family residential	50'	50'
—an arterial road that separates the zone from a commercial or industrial zone	25'	35' ²
—a transitway	25'	25'
Two buildings on the same lot must be set back from each other a distance of at least 30 feet.		

¹ 100 feet from interchange ramp for buildings and 50 feet from interchange ramp for parking. The setback for parking structures may be reduced below 200 feet but not below 100 feet upon approval by the Planning Board.

² Off-street parking is permitted between a building and a street identified on an approved preliminary plan of subdivision as providing access for public transit service unless the Planning Board determines that the location of the parking will discourage or adversely affect public transit use.

(6) Retail commercial development.

(A) Where the underlying base zone is C-6 and the principal use of the C-6 zoned property is a retail commercial use, then the standards of the C-6 Zone will apply, and, in addition:

(i) no single retail use within a multiple tenant principally retail use structure may be less than a gross floor area of 10,000 square feet.

(ii) no more than one principally retail commercial use can exceed a gross floor area of 100,000 square feet.

(B) Where the underlying zone is C-6 and the principal use of the C-6 property is other than retail commercial use, then the standards of the overlay zone will apply.

(c) **Trip reduction guidelines.** Within the overlay zone, compliance with the special trip reduction guidelines under Section [59-C-5.436](#), satisfies and represents full compliance with the requirements and/or goals for traffic mitigation/management.

(d) **Site plan.**

(1) Any retail commercial development in the U.S. 29/Cherry Hill Road Employment Area overlay zone must be approved under the site plan review provisions of Division 59-D-3, except where the cumulative redevelopment does not exceed 20 percent of the existing gross floor area.

(2) For uses other than retail, site plan review is required only where it is required in the underlying zone.

(e) **Special provisions for existing buildings.** Any structure lawfully existing as of the date of application of this overlay zone that does not conform to the standards of the overlay zone may be rebuilt, repaired, expanded and/or reconstructed in accordance with the standards of the underlying zone. However, any expansion must comply with the standards of the overlay zone.

(f) **Special provisions for existing uses.** Any lawfully existing use allowed as of the date of application of this overlay zone, including parking and maneuvering areas, which is not otherwise allowed in the overlay zone may be continued as a lawful use under the standards of the underlying zone.

(g) **Special provisions for approved site plans.** Any proposed development shown on a site plan or plan of development approved prior to the date of application of this overlay zone may be constructed in accordance with the approved plan regardless of whether said development is built in one or more phases. Such development is not subject to the provisions of Sec. [59-G-4.1](#) and [59-G-4.25](#), and may be continued, repaired, reconstructed, or structurally altered in accordance with the approved site plan or plan of development. In cases where detailed review of subsequent phases of an approved plan is anticipated, such reviews will continue to be required under the provisions of division 59-D-3.

(h) **Transfers.**

(1) *Transfer of density.* Where the underlying base zone is either C-6 or I-3, density may be transferred from any one or more area(s) or lot(s) that were in common ownership and classified in the I-3 Zone on July 5, 1990 and that are now within the boundaries of the overlay zone, to any other such area(s) or lot(s) within the overlay zone, regardless of current base zone. For such property now within the overlay zone, the maximum density of development must not exceed a floor area ratio of 0.4. Calculation of said floor area ratio is to be based on and may be averaged over the gross tract area of the owner on July 5, 1990. This is intended to and must include the area of all I-3 property owned by the owner on July 5, 1990, (without regard to current underlying zone), that is within the overlay zone. Calculation of the floor area ratio may

be averaged over two or more lots. When averaging is used for previously approved subdivision plans the total development density must not exceed the density for which the approval was previously granted.

(2) *Transfer of development capacity.* Notwithstanding subsection (1) above, any approved, but unbuilt, non-residential development capacity may be transferred from any property within the overlay zone (regardless of the underlying base zone) to any other property within the overlay zone with a base zone of I-2 in accordance with the standards and limitations herein and of Section TA 4.2 of the FY03 Annual Growth Policy as amended through (effective date of the FY03 AGP, as amended):

(A) Development capacity may only be transferred at a one-to-one ratio of jobs, but may be converted to another type of non-residential use at a conversion ratio approved by the Planning Board; and

(B) The provisions of Section C-18.132(h) do not limit the ability of the owner of either a transferor or transferee property to apply for a new or revised Preliminary Plan of Subdivision to allow further development or redevelopment of such property, in accordance with applicable requirements.

Sec. 59-C-18.14. Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan.

See Sec. 4.8.2.A – Commercial Preservation – Burtonsville Employment Area (CP-BEA) Overlay Zone

59-C-18.141. Purpose.

See Sec. 4.8.2.A.1 - Purpose

It is the purpose of this overlay zone to:

- (a) Develop a compatible mix of office, commercial, light industrial, and non-residential uses within a designated employment area.
- (b) Establish a uniform set of development standards for the zone.
- (c) Allow a limited amount of retail and service uses that will primarily serve the employees of the industrial area.
- (d) Encourage the use of traffic-limiting measures such as car pools and use of mass transit.
- (e) Eliminate uses not considered compatible with the intent of this overlay zone.

59-C-18.142. Regulations.

(a) **Land uses.**

See Sec. 4.8.2.A.2 – Land Uses

(1) ~~All permitted or special exception uses in a lot or parcel's underlying zone are allowed; however,~~

(a) all permitted uses in the ~~I-1M, I-3, EOF,~~ and ~~O-M EOF~~ zones are permitted for any tract of land with a preliminary plan approved by the Planning Board after October 27, 2006 but before October 27, 2009; and

(b) the following uses are prohibited:

Adult entertainment business Adult Entertainment

Agricultural uses Urban Farming, Animal Husbandry, Community Garden, Ag Processing, Farm Market On-site

Aircraft parts, sales and services, including the sale of fuel for aircraft only Repair (Commercial Vehicle)

Automobile parts, sales and services, including but not limited to tire sales and transmission service Light Vehicle Sales and Rental (Indoor and Outdoor); Repair (Minor) and Repair (Major)

Automobile filling stations Filling Station

Automobile repair and services Repair (Minor) and Repair (Major)

Automobile sales, indoors and outdoors Light Vehicle Sales and Rental (Indoor and Outdoor);

Automobile, truck and trailer rentals, outdoor Light Vehicle Sales and Rental (Outdoor);

Bakery Light Manufacturing and Production

Blacksmith shops and machinery shops Light Manufacturing and Production

Bottling plant Light Manufacturing and Production

Building materials and supplies, wholesale and retail specified under Retail/Service Establishment

Confectionery production Light Manufacturing and Production

Contractor's storage yards [Contractor Storage Yard](#)

Dry cleaning plants [Dry Cleaning Facility](#)

Electroplating and manufacturing of small parts such as coils, condensers, transformers, and crystal holders [Light Manufacturing and Production](#)

Food production, packaging, packing and canning [Light Manufacturing and Production](#)

Fuel storage yards [Storage Facility](#)

Highway fuel and food service [Filling Station](#)

Ice manufacturing and storage [Light Manufacturing and Production](#)

Laundry plants [Dry Cleaning Facility](#)

Lumberyards [Contractor Storage Yard](#)

Manufacturing of light sheet metal products [Light Manufacturing and Production](#)

Manufacturing, compounding, assembling or treatment of articles from the following previously prepared materials: bone, cellophane, plastic, canvas cloth, cork, feathers, felt, fiber, fur, hair, horn, leather textiles, yarns, glass, precious or semi-precious metals or stones, and tobacco [Light Manufacturing and Production](#)

Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development [Medical/Scientific Manufacturing and Production](#)

Manufacturing, fabrication and/or subassembly of aircraft or satellite parts, components, and equipment [Light Manufacturing and Production](#)

Manufacturing of musical instruments toys, novelties, and rubber and metal stamps [Light Manufacturing and Production](#)

Manufacturing of paint not employing a boiling or rendering process [Light Manufacturing and Production](#)

Manufacturing of pottery and figurines or other products using previously pulverized clay and kilns fired only by electricity or gas [Artisan Manufacturing and Production](#)

Off-loading and transfer sites for storage of sand, gravel or rocks [Mineral Storage](#)

Paper products manufacturing Light Manufacturing and Production

~~Parking of motor vehicle, off street, in connection with any use permitted in commercial zone~~

Recycling facility Recycling Collection and Processing

Rifle or pistol ranges, indoor Shooting Range (Indoor)

Sawmills Agricultural Processing

Warehousing and storage services:

- Industrial and commercial users Storage Facility

- Self-storage facilities Self-Storage

~~Stockyards~~

Stoneworks Light Manufacturing and Production

Storage, outdoor Storage Facility

Tinsmith and roofing services Light Manufacturing and Production

Trucking terminals Freight Movement

Wholesale trades limited to sale or rental of products intended for industrial or commercial users specified under Retail/Service Establishment

Wood products manufacturing Light Manufacturing and Production

~~In cases where uses are allowed by special exception, the special exception provisions must be satisfied.~~ Any tract of land with a use-and-occupancy permit issued before October 27, 2009 that otherwise would have been made non-conforming because of Zoning Text Amendment 09-05 is a conforming use, and may be modified, repaired, or reconstructed. Sec. 4.8.2.A.5

(2) The following retail/service establishment uses ~~commercial uses~~ are allowed:

Sec. 4.8.2.A.2
~~without regard to the underlying zone:~~

Antique shops, handicrafts, or art sales. Retail/service establishment

Barber or beauty shop. Retail/service establishment

Banks. Retail/service establishment

Bookstores. Retail/service establishment

Drugstore. Retail/service establishment

~~Eating and drinking establishment, excluding a drive-in.~~

Express or mailing offices. Retail/service establishment

Florist. Retail/service establishment

Food and beverage store. Retail/service establishment

Newsstand. Retail/service establishment

Photographic and art supply stores. Retail/service establishment

Shoe repair shops. Retail/service establishment

(b) **Development standards.** Development will proceed under the standards of the underlying zones except as modified by the provisions of this overlay zone.

See Sec. 4.8.2.A.3 – Development Standards and

See Sec. 4.8.1.B – Standards and Requirements

(1) **Setbacks.** ~~All buildings must be set back at least as follows, except that no setback is required from lot lines, zoning lines, utility rights-of-way or road rights-of-way within the overlay zone:~~

When abutting a lot that is not located in the CP-BEA Overlay zone, all buildings must be set back as follows:

(A) One hundred feet from any residential zone developed with or proposed for residential uses in an approved and adopted master or sector plan, or from a major highway separating the overlay zone from such residential uses.

(B) Fifty feet from:

i. A railroad or utility right-of-way that separates the employment area from a residential zone.

ii. A limited-access freeway or parkway.

iii. Property recommended in a master or sector plan for a non- residential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility or similar use.

(C) Twenty-five feet from an arterial road that separates the employment area from a ~~commercial~~Commercial/Residential or Employment zone.

(D) Ten feet from any ~~commercial~~Commercial/Residential, Employment, or Industrial zone outside the overlay zone.

(E) A building containing principally retail (50% or more of the gross floor area) commercial uses must be located at least 200 feet from any adjacent residential zone.

(2) **Parking.**

(A) All parking and maneuvering areas must be set back at least 100 feet from any adjacent residential zone, and 50 feet from a major highway with a right-of-way of 120 feet or greater that separates the overlay zone from any residential zone.

(B) Where property in this overlay zone adjoins residentially zoned land that is recommended in a master or sector plan for a non-residential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility or similar use, the setback for parking and maneuvering areas is 50 feet.

(3) **Floor area.**

(A) A building containing principally retail commercial uses must not exceed 20,000 gross square feet.

(B) The cumulative square footage of retail commercial uses permitted in the overlay zone must not exceed a total of 50,000 gross square feet.

(c) **Site plan:** Any development in the Burtonsville employment area overlay zone must ~~be approved under the~~submit a site plan review provisions of Division 59-D-3, under Sec. 8.3.4, Sec. 4.8.2.A.4

(d) **Special provisions for existing buildings:** Any structure lawfully existing as of the date of application of this overlay zone that does not conform to the standards of the overlay zone may be rebuilt, repaired, and/or reconstructed in accordance with the standards of the underlying zone as long as the degree of non-conformity is not increased. However, any expansion must comply with the standards of the overlay zone. Sec. 4.8.2.A.5.b

(e) **Special provisions for existing uses:** Any lawfully existing use allowed as of the effective date of application of this overlay zone, including parking and maneuvering areas, which is not otherwise

allowed in the overlay zone may be continued as a lawful use under the standards of the underlying zone. [Sec. 4.8.2.A.5.c](#)

Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.

See Sec. 4.8.5.A – Special Protection Area – Upper Paint Branch (SPA-UPB) Overlay Zone

59-C-18.151. Purpose.

See Sec. 4.8.5.A.1 - Purpose

It is the purpose of this overlay zone to:

(a) Protect the water quality and quantity of the Upper Paint Branch Watershed and its tributaries, as well as the biodiversity situated in these resources. The resources consist of the headwater tributary areas-Good Hope, Gum Springs, Right Fork and Left Fork-and the segment of the main stem of the Paint Branch north of Fairland Road.

(b) Regulate the amount and location of impervious surfaces in order to maintain levels of groundwater, control erosion, and allow the ground to filter water naturally and control temperature.

(c) Regulate land uses that could adversely affect this very high quality, cold water stream system resource that is afforded the highest order of resource protection (Use III Waters) under the State of Maryland’s watershed classification system.

59-C-18.152. Regulations.

(a) **Development standards.** The development standards of the underlying zone apply except as modified by the requirements of this overlay zone. [Sec. 4.8.1.B](#)

(1) **Restriction on Impervious Surface.** Any development must not result in more than 8 percent impervious surface of the total area under application for development. [Sec. 4.8.5.A.4](#)

(A) Any impervious surface lawfully existing pursuant to a building permit issued before July 1, 2007 that exceeds the 8 percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued. [Sec. 4.8.5.A.2](#)

(B) Any impervious surface which results from construction pursuant to a building permit may be constructed or reconstructed under the development standards in effect on July 31, 2007 if: [Sec. 4.8.5.A.2](#)

(i) the building permit application was pending before the Department of Permitting Services on July 31, 2007, or

(ii) the building permit is for a lot in a subdivision approved before July 31, 2007, if the subdivision was approved for fewer than 20 housing units,

~~———— (C) Any expansion of an impervious surface above the 8 percent restriction is not allowed, except in accordance with the waiver provisions of Subsection (a)(2) or as provided under Subsection (a)(1)(D).~~

(D) Any impervious surface resulting from an addition or accessory structure to an existing one-family residential dwelling must not be counted against any calculation of the 8 percent impervious surface restriction. [Sec. 4.8.5.A.2](#)

(2) **Waiver.** The Director may grant a waiver from the 8 percent impervious surface restriction subject to the following standards and procedures: [Sec. 4.8.5.A.5](#)

~~———— (A) **Written Request.** An applicant may apply for a waiver from the 8 percent impervious surface restriction if enforcement would result in undue hardship to the applicant. The request must be in writing to the Director.~~

~~———— (B) **Review and action.** The Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that:~~

(i) the 8 percent impervious limitation would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant;

(ii) the applicant complies with all applicable federal, state, and county water quality standards; and

(iii) the relief sought is the minimum needed to prevent the hardship and the Director must consider alternative techniques.

(b) **Land use.** All permitted or special exception uses allowed in the underlying zones are allowed in the overlay zone except that: [Sec. 4.8.5.A.3](#)

(1) The following special exception uses are allowed subject to the requirements of [Article 59-G](#) and specified environmental protection requirements:

Landscape contractor.¹

Retail nursery or garden center.¹

Wholesale nursery or greenhouse.¹

Golf courses and country clubs.²

Golf driving range.²

Riding stables.³ Equestrian Facility

(2) The uses in Section (1), if validly existing on July 1, 1997, may be continued under the regulations in effect at the time the use was established. Any expansion requires compliance with the provisions of this overlay zone.

(3) The following uses are prohibited in the overlay zone:

Airstrips, in common open space. Farm Airstrip, Helistop

Helistops. Helipad, Heliport

Pipelines, aboveground.⁴ Pipelines used for interstate transmission of petroleum products

Pipelines, underground.⁴ Pipelines used for interstate transmission of petroleum products

Automobile filling stations. Vehicle services

Automobile fluid maintenance stations. Vehicle services

Automobile repair and services. Vehicle services

- 1 If certified as an organic grower by the State of Maryland or another approved certifying body.
- 2 Must have an Integrated Pest Management program.
- 3 Must have an approved Soil Conservation Water Quality Plan from the Montgomery Soil Conservation District.
- 4 Pipelines used for interstate transmission of petroleum products.

~~Sec. 59-C-18.16. Chevy Chase comparison retail overlay zone. The regulations of this overlay zone have been captured by the density and height caps within the CR zones.~~

~~—59-C-18.161.— Purpose.~~

~~It is the purpose of this overlay zone to:~~

~~—(a)— Provide an appropriate scale of development and mix of retail, service, and residential uses within the Friendship Heights Central Business District.~~

~~—(b)— Regulate retail development to preserve a variety of retail uses and services in the Friendship Heights Central Business District to meet the needs of workers, shoppers, and residents.~~

~~—(c)—Encourage the use of the optional method of development and the provision of street-oriented retail uses to achieve the goals of the sector plan.~~

~~**59-C-18.162. Regulations.**~~

~~—(a)—Land uses. The uses allowed in the underlying central business district zone as set forth in Division 59-C-6 are allowed in the overlay zone.~~

~~—(b)—Development Standards. The standards of development must comply with the standards of the underlying zone except that within the Chevy Chase Comparison Retail Overlay Zone, the following additional limitations apply:~~

~~—(1)—Standard method of development.~~

~~—Under the standard method of development, total development is limited to no more than 375,000 square feet. For purposes of this overlay zone, total development includes basements, cellars, and common areas, and excludes parking areas and rooftop mechanical structures.~~

~~—(2)—Optional method of development.~~

~~—Under the optional method of development, total development is limited to the amount set forth in the Friendship Heights Sector Plan. For purposes of this overlay zone, total development includes basements, cellars, and common areas, and excludes parking areas and rooftop mechanical structures. The mix of uses allowed within the total development must conform with the recommendations of the Sector Plan.~~

~~**59-C-18.163. Procedure for application and approval.**~~

~~A site plan for any development in the Chevy Chase Comparison Retail Overlay Zone must be approved under the provisions of Division 59-D-3. If applicable, a project plan approved under the provisions of Division 59-D-2 must conform to the requirements of this overlay zone. Development includes the following:~~

~~—(a)—construction of a new building;~~

~~—(b)—additions and other exterior improvements to existing buildings that change the amount of floor area on a site; and~~

~~—(c)—addition of off-street parking spaces or revisions to parking facilities that require the approval of a new parking facilities plan under Section 59-E-4.1.~~

~~**59-C-18.164. Planning Board approval.**~~

~~—(a)—The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following findings:~~

~~—— (1) the site plan does not conflict with the recommendations in the applicable master or sector plan;~~

~~—— (2) the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and~~

~~—— (3) each structure and use is compatible with surrounding uses and other site plans for both existing and proposed adjacent development.~~

Sec. 59-C-18.17. Chevy Chase neighborhood retail preservation overlay zone.

See Sec. 4.8.2.B – Commercial Preservation – Chevy Chase Neighborhood Retail (CP-CCNR) Overlay Zone

59-C-18.171. Purpose.

Sec. 4.8.2.B.1 - Purpose

It is the purpose of this overlay zone to:

- (a) Retain the existing mix of neighborhood-oriented retail and service uses while allowing a reasonable expansion and modernization of retail space;
- (b) Ensure that the retail and service uses are accessible to pedestrians; and
- (c) Encourage pedestrian-oriented retail and reinforce a sense of community.

59-C-18.172. Regulations.

(a) Land uses. The uses allowed in the underlying zone are allowed in the overlay zone. Sec. 4.8.1.B However, only the following uses are permitted at the ground floor level, including entrance lobbies and common areas: Sec. 4.8.2.B.2

(1) Commercial:

Antique shops, handicraft, or art sale. Retail/Service Establishment

Book store. Retail/Service Establishment

Drug store. Retail/Service Establishment

Eating and drinking establishment. Restaurant

Florist. Retail/Service Establishment

Food and beverage store. Retail/Service Establishment

Gift shop. [Retail/Service Establishment](#)

Grocery store. [Retail/Service Establishment](#)

Hardware store. [Retail/Service Establishment](#)

Newsstand. [Retail/Service Establishment](#)

Pet shop. [Retail/Service Establishment](#)

Photographic studio. [Retail/Service Establishment](#)

Photographic and art supply store. [Retail/Service Establishment](#)

Specialty shops, such as jewelry store. [Retail/Service Establishment](#)

Variety and dry goods store, including wearing apparel. [Retail/Service Establishment](#)

(2) Services:

Appliance repair shop. [Retail/Service Establishment](#)

Banks and financial institutions. [Retail/Service Establishment](#)

Barber and beauty shop. [Retail/Service Establishment](#)

Business Office. [\[1\] Office](#)

Child day care facility. [Day Care Facility](#)

Dry cleaning and laundry pickup station. [Retail/Service Establishment](#)

Duplicating service. [Retail/Service Establishment](#)

Shoe repair shop. [Retail/Service Establishment](#)

Tailoring or dressmaking shop. [Retail/Service Establishment](#)

(3) Cultural and recreational:

Libraries and museum. [Cultural Institution](#)

Park and playground. [Playground, Outdoor Area \(Private\)](#)

(b) Development Standards. The standards of development must comply with the standards of the underlying zone Sec. 4.8.1.B ~~except as follows:~~

(1) A grocery store is limited to a maximum floor area of 25,000 square feet and any restaurant operating on May 4, 1998 is limited to a maximum floor area of 8,500 square feet. Sec. 4.8.2.B.3

(2) In order to promote a mix of uses, any use, other than a grocery store and a restaurant operating on May 4, 1998, permitted at ground floor level is limited to a maximum floor area of 5,000 square feet. However, the Planning Board may grant a waiver to increase the maximum floor area limit for any use permitted at the ground floor level during project plan or site plan review, if the Planning Board finds that an increased floor area is consistent with the commercial and development objectives for the area as established in the sector plan. The waiver must be reapproved by an amendment to the project plan or site plan if the use changes; however, a replacement tenant for the same use or a similar use may be approved by the Planning Board without formal project plan or site plan amendment. The 5,000 square foot area limit on uses permitted at ground level, does not apply to any use that occupied more than 5,000 square feet of floor area on May 4, 1998. Sec. 4.8.2.B.3

59-C-18.173. Procedure for application and approval.
Sec. 4.8.2.B.4

A site plan for any development in the Chevy Chase neighborhood retail preservation overlay zone must be approved ~~under the provisions of Division 59-D-3. If applicable, a project approved under the provisions of Division 59-D-2 must conform to the requirements of this overlay zone.~~ Development includes the following: Sec. 4.8.2.B.4

(a) construction of new buildings;

(b) additions and other exterior improvements to existing buildings that change the amount of floor area on a site; and

~~—(c)—addition of off-street parking spaces or revisions to parking facilities that require the approval of a new parking facilities plan under Section 59-E-4.1.~~

~~59-C-18.174.—Planning Board approval.~~

(a) The Board must find that all retail uses proposed in new or renovated buildings must be directly accessible from a sidewalk, plaza, or other public space before approving a site plan for the neighborhood retail preservation overlay zone. Sec. 4.8.2.B.4.b

~~(b)—The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following findings:~~

(1) the site plan does not conflict with the recommendations in the applicable master or sector plan; [Sec. 8.3.4.D.5 \(site plan finding\)](#)

(2) the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and [Sec. 8.3.4.D.5 \(site plan finding\)](#)

(3) each structure and used is compatible with surrounding structures and uses and other site plans for both existing and proposed adjacent development. [Sec. 8.3.4.D.5 \(site plan finding\)](#)

Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.

[See Sec. 4.8.4.E – Neighborhood Protection – Sandy Spring/Ashton Rural Village \(NP-SSA\) Overlay Zone](#)

59-C-18.181. Purpose.

[Sec. 4.8.4.E.1 - Purpose](#)

It is the purpose of this overlay zone to:

(a) Preserve and enhance the rural village character of the Sandy Spring and Ashton village centers by ensuring an attractive and traditional pattern of houses, commercial establishments, open spaces and their relationship to roadways.

(b) Encourage a compatible relationship between new or expanded houses or businesses and traditional neighboring structures that reflects the best of local village character, particularly in terms of scale, siting, design features, and orientation on the site.

59-C-18.182. Regulations.

[Sec. 4.8.4.E.2](#)

Lots developed under this overlay zone must be connected to a community water and sewerage system, unless it can be demonstrated that at the time of subdivision that limited number of lots on a private well and septic facility within the development will provide a more beneficial subdivision design because of environmental or compatibility reasons.

(a) Development standards residential zones:

[Sec. 4.8.4.E.4.b – Where a lot is in a Residential zone:](#)

(1) Land uses. All uses as allowed in the underlying zone as set forth in Sec. [59-C-1.31](#). [Sec. 4.8.1.B](#)

(2) Development standards. The development standards are the same as those in the underlying zones, [Sec. 4.8.1.B](#) ~~except as follows:~~

(A) Density of development: The density of development cannot exceed the standards for the underlying zone as set forth in the cluster provisions of Sec. 59-C-1.533.[Sec. 4.8.4.E.4.b](#)

(B) ~~Minimum net lot area~~: If development proceeds under the standards of the zone as set forth in Sec. 59-C-1, the standards for the zone apply and site plan review will not be required. [Sec. 4.8.4.E.5](#)

Lot sizes down to 3,000 square feet may be approved by the Planning Board, including zero side yard setbacks on one side, upon a showing that the resulting development will be consistent with the guidelines of the master plan. Site plan review in accordance with the provisions of Sec. 59-C-18.174 is required. [Sec. 4.8.4.E.4.b](#). [Language from 59-C-18.174 is captured in Sec. 4.8.4.E.4.b. , Sec. 4.8.4.E.5.c and Sec. 8.3.4.D.5 \(site plan findings\)](#)

(C) Building height: A main building must not exceed a height of 35 feet. [Sec. 4.8.4.E.4.b](#)

(b) Commercial development. Where a lot is zoned either partially or totally in a commercial zone the following regulations apply:
[Sec. 4.8.4.E.3](#)

(1) Land uses. All permitted or special exception uses allowed in the underlying zones are allowed in the commercial portion of the overlay zone- [See Sec. 4.8.1.B](#)- The following uses are prohibited in the overlay zones:
[See Sec. 4.8.4.E.3.b](#)

Adult entertainment business [Adult Entertainment](#)

Automobile filling station¹ [Filling Station](#)

Automobile fluid maintenance station [Repair \(Minor\)](#)

Automobile, light truck, and light trailer rentals, outdoor, except any automobile rental business in existence on October 13, 1998 may continue as a conforming use, and may be altered, repaired, or replaced in accordance with provisions of the zone in effect at the time the use was established. [Vehicle/Equipment Sales and Rental](#)

Automobile repair and services [Repair \(Minor\) and Repair \(Major\)](#)

Automobile, truck, and trailer rentals, outdoor [Vehicle/Equipment Sales and Rental](#)

Automobile sales, indoor [Vehicle/Equipment Sales and Rental](#)

Automobile sales, outdoor [Vehicle/Equipment Sales and Rental](#)

Baseball driving range [Recreation Facility](#)

Building materials and supplies [Retail sales and service establishment](#)

Car wash [Car Wash](#)

Combination retail store [Retail/Service Establishment \(50,000 SF and Over\)](#)

Department stores [Retail/Service Establishment \(50,000 SF and Over\)](#)

Dry cleaning and laundry establishments, consisting of no more than 3,000 square feet of gross floor area [Dry Cleaning Facility \(Up to 3,000 SF\)](#)

Eating and drinking establishments, drive-in [Drive Thru in connection with Restaurant](#)

Fairgrounds, circuses, and amusement parks [Recreation and Entertainment Facility](#)

Furniture stores, carpet, or related furnishing sales or service [Retail/Service Establishment](#)

Golf driving ranges [Recreation and Entertainment Facility](#)

Heliports [Helipad/Heliport](#)

Helistops [Helistop](#)

Ice storage [Storage Facility](#)–

Laboratories [R&D, medical/dental lab, and animal research facility](#)

Multi-family dwellings, except when included in a structure containing retail or commercial uses [multi unit living unless in multi use building. Sec. 4.8.4.E.3.a](#)

Newspaper, printing and publishing shops [Light Manufacturing and Production](#)

Parking garages, automobile, for off-site uses [Structured Parking](#)

Parking lots, automobile, for off-site uses [Surface Parking for Use Allowed in the Zone; Surface Parking for Commercial Uses in an Historic District](#)

Pawnshops [Retail/Service Establishment](#)

Pipelines, above ground [Pipelines \(Above Ground\)](#)

Radio and television broadcasting stations and towers [Media Broadcast Tower](#)

Racquet ball, squash, indoor tennis and handball courts, commercial [Recreation and Entertainment Facility](#)

Rifle or pistol ranges, indoor [Shooting Range \(Indoor\)](#)

Roller and ice skating rinks [Recreation and Entertainment Facility](#)

Stadiums or arenas [Recreation and Entertainment Facility](#)

Swimming pools, commercial [Recreation and Entertainment Facility](#)

Warehousing and storage service including: [Storage](#)

(A) Industrial and commercial uses wholly enclosed; or [Storage](#)

(B) Self-storage facility [Self-Storage](#)

(2) Development standards:

(A) Where the property is in a commercial zone, the setback and green area standards of the underlying zone are the same as set forth in Div. 59-C-4. [Sec. 4.8.1.B](#) Building height must not exceed 24 feet, except that at the time of site plan review the Planning Board may allow additional height up to 30 feet if the Board finds that the additional height is compatible with the adjoining uses and is consistent with the intent of the master plan.

[Sec. 4.8.4.E.4.a](#)

(B) Floor area ratio. The floor area ratio for commercial uses is limited to FAR 0.75, and is computed only on the area of the underlying commercial zoned portion of the site. [Sec. 4.8.4.E.4.a](#)

(C) In the case of special exceptions where a minimum area is otherwise required, the minimum area may be waived where recommended as appropriate in the master plan. [Sec. 4.8.4.E.4.a](#)

(D) In areas recommended in the Sandy Spring/Ashton Master Plan for mixed use development, development should consistent with the recommendations of the master plan. In the residential portions of the mixed-use areas, off-street parking for commercial uses is allowed without a requirement for approval of a special exception. [Sec. 4.8.4.E.4.a](#)

1 Any lawful use in existence as of the date of application of the overlay zone is a conforming use, and may be altered, repaired, or replaced ~~in accordance with~~ the provisions of the zone in effect at the time the use was established.

59-C-18.183. Procedure for application and approval.
[Sec. 4.8.4.E.5 – Site Plan](#)

A site plan for any development in the Sandy Spring/Ashton Rural Village Overlay Zone must be approved under the provisions of Section 59-C-18.174 except for a one-family detached residential house developed in accordance with the provisions of Division 59-C-1. Development includes the following: The language from 59-C-18.174 is captured in Sec. 4.8.4.E.4.b, Sec. 4.8.4.E.5.c, and Sec. 8.3.4.D.5 (site plan findings)

(a) Construction of a new building;

(b) Additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site; and

~~(c) Additions of off street parking spaces or revisions to parking facilities that would otherwise require the approval of a new parking facilities plan under Section 59-E-4.1.~~

59-C-18.184. Site plan contents and exemptions.

~~(a) Section 59-D-3.22 and 59-D-3.23 do not apply in the Sandy Spring/Ashton Rural Village Overlay Zone.~~

~~(b) A site plan for development in the Sandy Spring/Ashton Rural Village Overlay Zone must include:~~

~~(1) A drawing of the site and adjacent area that includes existing buildings and structures, uses, and zoning;~~

~~(2) The location, height, ground coverage, roof design, surface finish materials, and use of all structures on the site;~~

~~(3) For each mixed use building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes;~~

~~(4) The floor areas of all nonresidential buildings and the proposed use of each;~~

~~(5) The location of recreational and green areas and other open spaces;~~

~~(6) Calculations of building coverage, density, green area, number of parking spaces and areas of land use;~~

~~(7) A grading plan;~~

~~(8) The location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets or properties and pedestrian walks;~~

~~— (9) — A landscaping plan (and final forest conservation plan, if required under Chapter 22A), showing all man-made features and the location, height or caliper, and species of all plant materials;~~

~~— (10) — An exterior lighting plan, including all parking areas, driveways and pedestrian ways, and the height, number, and type of fixtures with a diagram showing their light distribution characteristics; and~~

~~— (11) — A development program with the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping, and recreational facilities, are to be developed. The applicant must designate the point in the development program sequence when the applicant will ask the Planning Board to inspect for compliance with the approved site plan.~~

~~— In the course of site plan approval, the Planning Board must make a finding as to whether or not the proposed development substantially conforms with the design guidelines for new development contained in the approved and adopted Sandy Spring/Ashton Master Plan.~~

59-C-18.185. Off-street parking and loading.
Sec. 4.8.4.E.6

~~Parking must be provided in accordance with the provisions of Division 59-E with the following exceptions:~~

(a) In the course of site plan review, the Planning Board may allow some on-street parking to fulfill the requirement for off-street parking to enhance compatibility, provide additional green space and reduce impervious coverage.

(b) Properties in a residential zone that are designated in the Sandy Spring/Ashton Master Plan as suitable for mixed use or non-residential use may be utilized for off-street parking in connection with commercial uses, ~~without the necessity for approval of a special exception under Sec. 59-G-2.39.~~

The Sandy Spring/Ashton Rural Village Overlay Zone encourages the parking of vehicles in the side or rear yards. In addition, in order to reduce access points and thereby enhance safety, adjoining parking facilities may be required to provide internal connections. In exceptional circumstances, limited parking may be allowed in the front yard.

59-C-18.186. Planning Board approval.

~~The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:~~

(a) The site plan is consistent with the recommendations in the approved and adopted Sandy Spring/Ashton Master Plan; Sec.8.3.4.D.5, site plan findings

(b) The site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and
[Sec. 4.8.1.B](#)

(c) Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development [Sec.8.3.4.D.5, site plan findings](#)

Sec. 59-C-18.19. Fenton Village Overlay Zone.

[See Sec. 4.8.4.A – Neighborhood Protection – Fenton Village \(NP-FV\) Overlay Zone](#)

59-C-18.191. Purpose.
[Sec. 4.8.4.A.1](#)

~~It is the purpose of the Fenton Village Overlay Zone to address the special development issues in the Fenton Village area as identified in the Silver Spring Central Business District Sector Plan.~~ Specifically, the zone is designed to:

- (a) facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment;
- (b) encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the overlay zone;
- (c) provide flexibility of development standards to encourage innovative design solutions;
- (d) allow for the transfer of the public use space requirement to other properties within the Overlay District; and
- (e) allow new uses.

59-C-18.192. Regulations.
[Sec. 4.8.4.A.2](#)

(a) Land uses. Permitted and special exception uses allowed under the standard and optional method of development in the underlying CBD zones are allowed in the overlay zone. ~~Sec. 4.8.1.B In addition, any combination of permitted and special exception uses may be considered as part of a site plan or project plan submitted for review.~~ The following additional uses are permitted in the Overlay Zone: [Sec. 4.8.4.A.2](#)

Catering facilities [Retail/Service Establishment](#)

Bakeries, less than 1500 square feet [Retail/Service Establishment](#)

Assembly of computer components [Light Manufacturing and Production](#)

(b) Development standards. The development standards are the same as those in the underlying zones, except:

Sec. 4.8.4.A.3

(1) Building height in the Overlay Zone:

(A) along a major highway must not exceed 90 feet;

(B) along any street confronting any block that includes property zoned in a one-family residential classification, must not exceed 60 feet;

(C) within the area between a major highway and a street that confronts a block that includes property zoned in any one-family residential classification, must not exceed 60 feet but may increase up to 90 feet the maximum height allowed if at least 33 % of a project's floor area is residential; however, if additional building height is necessary to allow to accommodate workforce housing units and at least 33% of the project's floor area is residential, up to 110 feet and where the additional height is placed near a major highway and decreases in the direction of the closest property zoned in any one-family residential classification;

(D) for property located in a block that includes property zones in any one- family residential classification, must not exceed 45 feet for all uses, except the building height must not exceed 60 feet for:

(i) residential use; or

(ii) mixed-use optional method project, if at least 33% of the project's floor area is residential and the project includes a hotel;

(E) for properties with frontage on both Wayne Avenue and Fenton Street, notwithstanding the height limitations in Subsection (b)(1)(B)-(D), may be increased by 15 feet for a building that includes residential uses or a mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan. However, any building using additional height must be set back from adjoining residentially zoned land no less than the setback required in the adjacent residential zone or the height of the building, whichever is greater.

(F) Building heights may be approved under the standards of this subsection without regard to the building height recommendations of the sector plan.

(G) Any project plan approved before August 18, 2008 may be constructed under the conditions of its approval and any site plan thereafter that implements the previously approved project plan. Any site plan approved before August 18, 2008 may be constructed under the conditions of its approval. Any building constructed under this subsection is conforming and may be maintained and reconstructed under the conditions of their approval.

(2) Parking in the front yard of properties fronting on Georgia Avenue is prohibited.

(3) Costs associated with meeting the public use space offsite may be shared by multiple property owners.

(4) In the ~~CBD-1~~ CR Zone, the FAR may be increased to FAR 2 under the standard method of development if approved by site plan in accordance with Division 59- D-3.

59-C-18.193. Methods of Development.

(a) Standard method of development in accordance with the underlying zone provisions. Sec. 4.8.1.B

(1) in the ~~CBD-1~~ CR zone the FAR may be increased to FAR 2 under the standard method of development if approved by site plan in accordance with Division 59-D-3. ~~Streetscaping is required as part of the site plan.~~ Sec. 4.8.4.A.3

(2) the public use space requirement may be transferred to other properties within the Overlay Zone if approved by a site plan in accordance with Division 59-D-3. Sec. 4.8.4.A.3

(b) Optional method of development in accordance with the underlying Zone provisions except as modified by this Overlay Zone. Sec. 4.8.1.B

59-C-18.194. Density of development.

Development in the Overlay Zone may proceed under one of the following options:

(a) Underlying zone standards. Except as regulated by this overlay zone, development may proceed under the standards of the underlying CBD Zone, in accordance with the provisions of Sec. 59-C-6.23. Sec. 4.8.1.B

(b) Any building for which a valid building permit was issued before approval of the Fenton Village Overlay Zone Sectional Map Amendment, is a conforming building and may be altered, repaired or reconstructed under the standards of the zone in effect at the time the building was constructed, except: Sec. 4.8.4.A.5

(1) If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed as of the date of application of the Fenton Village Overlay Zone; or

(2) If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further regulated by the Fenton Village Overlay Zone.

59-C-18.195. Procedure for application and approval.
Sec. 4.8.4.A.4

A site plan and, ~~where applicable a project plan~~, for any development in the Fenton Village Overlay Zone must be approved under the provisions of Divisions ~~59-D-2~~ and D-3.

Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.
See Sec. 4.8.4.C Neighborhood Protection – Ripley/South Silver Spring (NP-RSS) Overlay Zone

59-C-18.201. Purpose.
Sec. 4.8.4.C.1

It is the purpose of the Ripley/South Silver Spring Overlay Zone to ~~address the special development issues in the Ripley/South Silver Spring area as identified in the Silver Spring Central Business District Sector Plan. Specifically, the zone is designed to:~~

- (a) facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment;
- (b) encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the overlay zone;
- (c) provide flexibility of development standards to encourage innovative design solutions;
- (d) allow for the transfer of the public use space requirement to other properties within the Overlay District; and
- (e) allow new uses.

59-C-18.202. Regulations.

(a) Land uses. Permitted and special exception uses allowed under the standard and optional method of development in the underlying CBD zones are allowed in the overlay zone. ~~Sec. 4.8.1.B In addition, any combination of permitted and special exception uses may be considered as part of a site plan or project plan.~~ The following additional uses are permitted in the Overlay Zone: **Sec. 4.8.4.C.2**

Catering facilities Retail/Service Establishment

Bakeries, less than 1500 square feet Retail/Service Establishment

Assembly of computer components Light Manufacturing and Production

(b) Development standards. The development standards are the same as those in the underlying zones, [Sec. 4.8.1.B](#) except:

(1) Building height in the overlay zone along Newell Street and Eastern Avenue that confronts a residential zone in the District of Columbia must not exceed a height of 45 feet. However, this building height may be increased to: [Sec. 4.8.4.C.3](#)

(A) a maximum of 90 feet for any building or portion of a building that is set back at least 60 feet from the street; or

(B) a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and Newell Street and includes a public parking garage constructed under a General Development Agreement with the County.

(2) The Planning Board may approved a maximum building height of 200 feet in any ~~CBD-2 CR~~ zoned optional method of development project that provides ground floor retail. Any structure or device used to collect or radiate electromagnetic waves, including a satellite dish, must not be included in calculating building height under this paragraph. [Sec. 4.8.4.C.3](#)

(3) Parking must not be allowed in the front yard of any property fronting on Georgia Avenue. [Sec. 4.8.4.C.3](#)

(4) Costs associated with meeting the public use space offsite may be shared by multiple property owners. [Sec. 4.8.4.C.3](#)

59-C-18.203. Methods of development.

(a) Standard method of development may be approved under the standards of the underlying zone. [Sec. 4.8.1.B](#) The public use space requirement may be transferred to other properties in this overlay zone if approved in a site plan under Division 59-D-3. [Sec. 4.8.4.C.3](#)

(b) Optional method of development may be approved under the standards of the underlying zone except as modified by this overlay zone. [Sec. 4.8.1.B](#)

59-C-18.204. Density of development.

Development in the overlay zone may proceed under one of the following options:

(a) Underlying zone standards. Except as modified by this overlay zone, development may proceed under the standards of the underlying ~~CBD- CR~~ Zone, in accordance with Section 59-C-6.23. [Sec. 4.8.1.B](#)

~~—(b)—Any building constructed that satisfies a project plan or site plan approved under this section is a conforming structure and may be repaired or reconstructed under the conditions of the approved project plan or site plan.~~

(c) Any building for which a valid building permit was issued before February 1, 2000 is a conforming building and may be altered, repaired, or reconstructed under the standards of the zone in effect when the building was constructed, except:

Sec. 4.8.4.C.5

(1) If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed on February 1, 2000; or

(2) If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further modified by the Ripley/South Silver Spring Overlay Zone.

59-C-18.205. Procedure for application and approval.

Sec. 4.8.4.C.4

A site plan and ~~where applicable a project plan,~~ for any development in the Ripley/South Silver Spring Overlay Zone must be approved under the provisions of Divisions ~~59-D-2~~ and D-3.

Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.

Sec. 4.8.2.D – Commercial Preservation – Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS) Overlay Zone

59-C-18.211. Purpose.

Sec. 59-4.8.2.D.1

(a) The purpose of the Takoma Park/East Silver Spring commercial revitalization overlay zone is to:

(1) Foster economic vitality and attractive community character in areas needing revitalization;

(2) Promote an enhanced pedestrian environment and an improved circulation system to pedestrians and bicycles as well as motor vehicles;

(3) Ensure consistency with the master plan vision for specific existing commercial areas;

(4) Provide for the combination of residential with commercial uses.

(b) ~~This overlay zone will accomplish this by:~~

~~(1) Providing for flexibility of certain development standards which may allow for more commercial development and better design than would otherwise be achieved;~~

~~(2) Providing for design review either through site plan review, or administrative review for minor changes;~~

~~(3) Allowing or limiting uses consistent with the master plan vision for specific commercial areas;~~

~~(4) Enabling the master plan to modify the development standards of the base zones.~~

~~**Editor's note**—The outline of subsection 59-C-18.211 is provided for the convenience of the reader and was not in the original text of the Ordinance.~~

59-C-18.212. Regulations.

(a) Land uses. All permitted or special exception uses allowed in the underlying commercial zones are allowed in the overlay zone as regulated below:

Sec. 4.8.1.B

(1) In areas zoned ~~C-1, CRN and CRT~~ the following additional uses are allowed by right: Sec. 4.8.2.D.2.b

– Bowling alley Recreation and Entertainment Facility, Indoor (Capacity up to 1,000)

~~Clinic~~ Clinic for up to 4 and over 4 practitioners already allowed as an L or P in these zones

~~Delicatessen~~ Restaurant already an L or P in these zones

~~Educational institution, private~~ Educational Institution (Private) already L or P in these zones

~~Express or mailing office~~ Retail/Service Establishment is already an L or P in these zones

~~Fire station, publicly supported~~ Public Use already a P in these zones

~~Hospital, veterinary, except that there must not be any runs, exercise yards, or other facilities for the keeping of animals in any exterior space, and all interior spaces must be soundproofed.~~ Veterinary Office/Hospital already an L in these zones with the limitations as one of the use standards

~~International organizations, public~~ Office already a P in these zones

~~Libraries and museums~~ Cultural Institution already an L or P in these zones

~~Offices, general~~ Office already a P in these zones

~~Pet shop~~ Retail/Service Establishment is already an L or P in these zones

~~Parking lots, automobile~~ Surface Parking for Use Allowed in the Zone is an L in these zones

~~Retail trades, businesses, and services of a general commercial nature~~ Retail/Service Establishment is already an L or P in these zones

Theater, indoor Recreation and entertainment facility, indoor (up to 1,000)

~~Tourist home~~

~~(2) In areas zoned C-1, the following additional use is allowed by special exception:~~

~~Nursing home~~ Residential Care Facility is already allowed as P or L in these zones.

(3) ~~In areas zoned C-1, C-2, or O-M, dwellings are allowed by right~~ The zones that these convert to (CRN, CRT, EOF) all allow dwellings as L or P

(4) In areas zoned ~~C-1 or C-2~~, CRN and CRT the following uses, as allowed in the underlying zones, are allowed in the overlay zone only if the use does not adjoin or confront land in a residential zone: Sec. 4.8.2.D.2.c

Automobile sales, indoor Light Vehicle Sales and Rental (Indoor)

Automobile filling station Filling Station

Automobile fluid maintenance station Repair (Minor)

Automobile, light truck and trailer rentals Light Vehicle Sales and Rental (Indoor)

Automobile repair and services Repair (Minor) and Repair (Major)

~~Automobile storage lot~~ Automobile Storage Lot not allowed in CRN or CRT at all

Automobile truck and trailer rentals, outdoors Light Vehicle Sales and Rental (Outdoor)

Car wash Car Wash

Funeral parlors or undertaking establishments²Funeral Home, Undertaker

~~—¹—Must comply with all County building and related codes. Application for a building permit must be accompanied by a letter or other communication indicating that the State Department has been notified of the proposed location.~~

~~—²—If the operation includes a crematorium as an accessory use.~~

59-C-18.213. Development standards.

All development must comply with the standards and requirements of the underlying zone, except as modified by this overlay zone.

Sec. 4.8.1.B

(a) The Planning Board may, in the course of site plan review:

~~1.—Waive the requirements for parking setbacks and numbers of spaces where it finds that such waivers will accomplish the goals of the master plan including revitalization, enhancing the pedestrian environment and encouraging the use of transit; Covered under alternative compliance in Article 59-7.~~

2. Where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the ~~OM~~EOF or CRT zone, and Sec. 4.8.2.D.4.b

3. Reduce building setbacks to accomplish master plan objectives. Sec. 4.8.2.D.4.b

~~—(b)—Dwellings Commercial/Residential and Employment zones all now allow for dwellings this is accounted for under development standards and method of development.~~

~~—1.—Dwellings in the overlay zone must comply with the following standards and requirements:~~

~~(A)—Dwellings must be compatible with existing or planned development on the same lot or tract and be compatible with the surrounding area.~~

~~—(B)—Dwellings must meet the development standards of the applicable underlying zone for minimum setbacks, green area, and lot coverage. The required green area may be adjusted to assure compatibility of uses, or to provide adequate area to accommodate housing, if appropriate.~~

~~—(C)—Access must be provided by one or more direct driveways to a public street. The entrance must be located and appropriately lighted to assure safe access for residents, whether or not commercial uses on the same lot are in operation.~~

(D) Multi-unit living is only allowed in a multi use building type, unless this requirement is waived by the Planning Board. Sec. 8.4.2.D.2.a

(c) Building Height Sec. 4.8.2.D.3

1. Within the overlay zone, building height is limited to 30 feet. However, the Board may allow a building height: (i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

Retained

59-C-18.214. Procedure for application and approval.

(a) A site plan, ~~in accordance with the provisions of Division 59-D-3, for development in the overlay zone~~ is required for: Sec. 4.8.2.D.4.a

(1) New construction,

(2) Any addition, reconstruction, or exterior alteration to a building that changes the gross floor area by more than 1,000 square feet,

(3) An expansion of a building by 1,000 square feet or less, that is subject to the provision of 59-C-18.216(b)(i), [59-C-18.216(b)(i) language was incorporated: Any building existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming building on that date, but that does not conform to the standards of the overlay zone]

(4) A waiver of more than 50 percent of the off-street parking requirements ~~set forth in under Division 59-E-3.7, and Div. 7.1~~

(5) Conversion of an existing structure to residential use.

(b) For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet that is not subject to site plan review under 59-C-18.214(a)(3); there will be a review of the building permit by the Planning Board or its designee to determine compliance with master plan recommendations and the provisions of this overlay zone. If existing buildings are located on the site or on an adjacent property, then the minimum setback of the zone may be reduced by the applicant to conform to the existing setback on the site or on the adjacent property. Sec. 4.8.2.D.4.c

59-C-18.215. Planning Board approval.

~~—The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:~~

(a) the site plan is consistent with the recommendations in the applicable master or sector plan for the area. Sec. 8.3.4, site plan findings

(b) the site plan meets all of the purposes and requirements of this overlay zone as well as the applicable requirements of the underlying zone; and Sec. 8.3.4, site plan findings

(c) each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development. Sec. 8.3.4, site plan findings

59-C-18.216. Special provisions.

(a) ~~Building Permits:~~

~~(i)—Construction pursuant to a building permit applied for as of the effective date of Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone may proceed under the provisions of the underlying zone. If a building permit expires, then the provisions of the overlay zone must be met.~~

~~—(ii)—A building permit for construction within the City of Takoma must be referred by the Department of Permitting Services to the City for use in initiating certain municipal review processes.~~

(b) Existing Buildings and Uses: Sec. 4.8.2.D.5

(i) Any use or building existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming use or building on that date, but that does not conform to the standards of the overlay zone, may continue as a conforming use or building and may be rebuilt, repaired, or reconstructed.

~~—(ii)—Any use existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming use on that date, but does not conform to the standards of the overlay zone, may continue as a conforming use.~~

(iii) Any building or use as identified in (i) ~~or (ii)~~ may expand up to 1,000 square feet, subject to site plan review ~~in accordance with 59-C-18.214~~ under Sec. 8.3.4.

Sec. 59-C-18.22. Neighborhood retail overlay zone.

See Sec. 4.8.2.C – Commercial Preservation – Neighborhood Retail (CP-NR) Overlay Zone

59-C-18.221. Purpose.
Sec. 4.8.2.C.1

It is the purpose of this overlay zone to allow for neighborhood-serving retail commercial uses in ~~multi-family~~Multi-Unit zones as recommended in the applicable master plan.

59-C-18.222. Regulations.

(a) Land uses. All permitted or special exception uses allowed in the underlying multi-family zones are allowed in the respective zones within the overlay zone. Sec. 4.8.1.B Commercial uses are allowed in a ~~multi-family~~Multi-Unit zone where designated as suitable in the applicable master plan. Such uses are limited to those allowed in Sec. 59-G-2.47(a). Sec. 4.8.2.C.2

(b) Development standards. All development must comply with the standards and requirements of the underlying zone except as modified by this overlay zone.
Sec. 4.8.1.B

(1) ~~Neighborhood-oriented commercial uses are allowed in a multi-family zone only where such uses are recommended as suitable in the applicable master plan.~~ If the Retail/Service Establishment use is proposed to be free-standing, the scale and character of development must be consistent with the recommendations of the master plan. If the commercial use is proposed to be provided in a ~~multi-family structure~~ apartment/condo building type, the use must have direct access to the street.
Sec. 4.8.2.C.3

(2) Where commercial uses are proposed in a ~~multi-family~~Multi-Unit zone, the development is subject to approval of a site plan under Division 59-D-3.
Sec. 4.8.2.C.4.a

(3) In the course of site plan review, the Planning Board may waive the requirements for parking setbacks and numbers of spaces where it finds that such waivers will accomplish the goals of the master plan and provide for a form of development that allows better pedestrian circulation and encourages use of transit.
Sec. 4.8.2.C.4.b

~~**59-C-18.223. Procedure for application and approval.**~~

~~A site plan, in accordance with the provisions of Division 59-D-3, for development in the neighborhood retail overlay zone is required for any development in a multi-family zone that proposes to provide commercial uses. Duplicative of (2) above.~~

59-C-18.224. Planning Board approval.

The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following findings:

(a) the site plan does not conflict with the recommendations in the applicable master plan; [Sec. 8.3.4, site plan findings](#)

(b) the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and [Sec. 8.3.4, site plan findings](#)

(c) each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development. [Sec. 8.3.4, site plan findings](#)

Sec. 59-C-18.23. Rural village center overlay zone.

See Sec. 4.8.4.D – Neighborhood Protection – Rural Village Center (NP-RVC) Overlay Zone

59-C-18.231. Purpose.
Sec. 4.8.4.D.1

It is the purpose of this overlay zone to create attractive, cohesive, and pedestrian-friendly rural village centers, consisting of a mix of uses as allowed in the underlying zones, as limited in this section. Specifically, the overlay zone is designed to:

(a) Draw upon the open, green character of the surrounding area, emphasizing this character through streetscape design, open space, and landscaping.

(b) Maintain and enhance the rural village character through compatible scale, massing, siting, and setbacks for new and expanded uses.

(c) Emphasize the pedestrian and bicycle circulation through street design, including streetscape and traffic calming, and trail networks.

(d) Encourage a variety of uses that serve the needs of the local community, including mixed-use buildings that provide housing and commercial uses to the extent allowed in the underlying zone.

(e) Provide opportunities for appropriately scaled new and existing business expansion, while keeping the commercial area compact and low density.

59-C-18.232. Regulations.

(a) Commercial zones. Where a lot is either partially or totally in a **commercial Commercial/Residential or Employment** zone the following regulations apply:

(1) *Land uses.* All permitted or special exception uses allowed in the underlying zones are allowed in the commercial portion of the overlay zone except as noted below:

[See Sec. 4.8.1.B and Sec. 4.8.4.D.2](#)

The following uses are prohibited:

Amusement center Recreation and Entertainment Facility

Animal boarding place Animal Boarding and Care

Appliance repair shops Retail/Service Establishment

Appliance store Retail/Service Establishment

Automobile fluid maintenance station Repair (Minor)

Automobile, light truck and light trailer rentals, outdoor, except any automobile rental business, in existence on October 13, 1998 may continue as a conforming use, and may be altered, repaired, or replaced in accordance with provisions of the zone in effect at the time the use was established Vehicle/Equipment Sales and Rental retained, with this exception

Automobile parts, supplies and tire stores Vehicle/Equipment Sales and Rental

Automobile sales, indoor Vehicle/Equipment Sales and Rental

Automobile sales, outdoor Vehicle/Equipment Sales and Rental

Baseball driving range Recreation and Entertainment Facility

Boat sales, indoors Vehicle/Equipment Sales and Rental

Building materials and supplies Retail/Service Establishment

~~Chancery~~

Eating and drinking establishments, drive-in Drive-Thru in connection with a Restaurant

Heliports Helipad, Heliport

Helistops Helistop

~~Ice storage~~

~~International Organization~~

Multi-family dwellings, except when included in a structure containing retail or commercial uses Multi-unit living is allowed only in a multi use building type.

Newspaper, printing and publishing shops Light Manufacturing and Production

Rifle or pistol ranges, indoor Shooting Range (Indoor)

Roller and ice skating rinks Recreation and Entertainment Facility

Stadiums or arenas Recreation and Entertainment Facility

Swimming pools, commercial Recreation and Entertainment Facility

The following uses may be allowed only by special exception, subject to the review standards of 59-G:

Automobile filling station; ~~however, any automobile filling station existing before June 14, 2006 not in compliance with the special exception standards of 59-G-2.06(9) may continue as a conforming use~~ Sec. 4.8.4.D.2.a.ii (Fuel sales is already a C in in CR, CRT, and all Employment zones)

Dry cleaning and laundry establishments of no more than 3,000 sf of gross floor Area ~~(Section 59-G-1 review standards only)~~ Sec. 4.8.4.D.2.a.i

(2) Development standards:
Sec. 4.8.4.D.3.a

(A) *Setbacks.* All buildings, off-street parking, loading and maneuvering areas must be set back from lot lines adjoining any residential or agriculture zone a distance not less than the applicable front, rear, or side yard of the adjoining zone. However, the Planning Board may authorize alternative setbacks that replicate existing development patterns if recommended in a master or sector plan. All other setbacks will be determined at site plan.

(B) *Density.* ~~Except as noted below,~~ the floor area ratio for commercial uses is limited to FAR 0.2, and is computed only on the area of the underlying commercially (C/R, E) zoned portion of the site. Any project that received preliminary plan approval before November 4, 2002 for commercial development at an FAR greater than 0.2, is not subject to the FAR limitation of this section and may be developed, as a conforming use, in accordance with the approved preliminary plan.

The Planning Board may recommend density in excess of 0.2 FAR, up to the maximum allowed in the underlying zone, if authorized in a master or sector plan, if the Planning Board determines that the higher density is compatible with surrounding uses and will better replicate existing development patterns in a village.

(C) *Green area.* Except as noted below, the minimum green-area open space is 35% of the gross tract area. The Planning Board may authorize less green-area open space if

recommended in a master or sector plan if the Planning Board determines that reduced ~~green area-open space~~ will better replicate existing development patterns in a village.

(D) *Building height.* No building may exceed a height of 35 feet.

(E) Off street parking and loading. Parking must be provided in accordance with the provisions of Division 59-E with the following exceptions:

1. Parking facilities must be located to maintain a pedestrian-friendly street orientation.

2. Trees must be planted and maintained throughout the parking facility to assure that at least 30 percent of the area is shaded. Shading must be calculated using the area of the tree crown at 15 years after the parking facility is built.

3. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002 the entire off-street parking facility must be brought into conformance with this Section.

(F) Commercial facilities must provide, as necessary, noise mitigation measures to minimize impact on adjacent residentially used properties.

(G) All outdoor lighting of commercial uses must be located, shielded, landscaped or otherwise buffered so that no direct light intrudes into an adjacent residential property. Unless the Planning Board requires different standards for a recreational facility or to improve public safety, luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.

(b) *Residential zones:* Where a lot is in a residential zone the following regulations apply:

(1) *Land uses.* All uses as allowed in the underlying zone as set forth in Sec. [59-C-1.31](#), except as prohibited below. In addition, residentially zoned land may provide septic capacity for an adjacent commercial use, or adjacent residential property, consistent with the applicable master plan recommendations. [Sec. 4.8.4.D.2.b](#)

Life care facility [Residential Care Facility \(Over 16 Persons\)](#)

Child day care center [Day Care Center \(13-30 Persons\) and Day Care Center \(Over 30 Persons\)](#)

Hospital

~~Life sciences center~~

Nursing home [Residential Care Facility \(Over 16 Persons\)](#)

Golf course or country club Golf Course, Country Club

(2) *Development standards.* Except as noted below, the development standards are the same as those in the underlying zones.

See Sec. 4.8.1.B

(A) *Setbacks.* If recommended in a master or sector plan, the Planning Board may authorize alternative setbacks that replicate existing development patterns at the time of site plan review. Sec. 4.8.4.D.3.b

59-C-18.233. Procedure for application and approval.

A site plan ~~for any development in the Rural Village Overlay Zone must be approved under the provisions of Section 59-D-3. Development includes the following:~~ is required for: Sec. 4.8.4.D.4

- (a) Construction of a new building;
- (b) Additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site; and
- (c) ~~Additions of off-street parking spaces or revisions to parking facilities that would otherwise require the approval of a new parking facilities plan under Section 59-E-4.1.~~

59-C-18.234. Planning Board approval.

The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:

- (a) The site plan is consistent with the recommendations and guidelines in the applicable Master Plan; and Sec. 8.3.4, site plan findings
- (b) The site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone. Sec. 8.3.4, site plan findings

Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.

See Sec. 4.8.5.B – Special Protection Area – Upper Rock Creek (SPA-URC) Overlay Zone

59-C-18.241. Purpose.
Sec. 4.8.5.B.1

It is the purpose of this overlay zone to:

(a) Protect the water quality and quantity of the Upper Rock Creek and its tributaries, as well as the biodiversity situated in these resources. The resources consist of those tributaries of Rock Creek and the North Branch of Rock Creek north of Muncaster Mill Road in the Upper Rock Creek Planning Area.

(b) Regulate the amount and location of impervious surfaces in order to maintain levels of groundwater, control erosion, and allow the ground to filter water naturally and minimize the temperature and volume of stormwater runoff.

59-C-18.242. Regulations.

(a) ~~Applicability. All development or subdivisions requiring a building or sediment control permit (except as noted below) and served by community sewer will be subject to these regulations.~~—All public projects are subject to the provisions of this overlay zone, however, these provisions are not intended to preclude the development of public facilities. Such facilities must conform to the water quality plan submission and review requirements established in the Montgomery County Code, Chapter 19, Article V, and keep imperviousness to the minimum needed to accomplish the public purpose intended.

(b) Exemptions. The following are exempted from the provisions of this overlay zone: [Sec. 4.8.5.B.2](#)

- i. Any property expressly exempt by the applicable approved and adopted master plan.
- ii. An addition or accessory structure to an existing one-family residential dwelling.
- iii. Any use in an industrial or commercial zone.

iv. Development associated with a private institutional facility that has an approved preliminary plan as of November 15, 2004, provided that the development is consistent with the preliminary plan (or a landscaping plan approved as a condition of the preliminary plan) or with section v. below, and that every effort is made to minimize imperviousness and/or mitigate the impacts of runoff.

v. Development on private institutional facilities that contains no more than 5 percent greater total imperviousness than shown on a preliminary plan (or a landscaping plan approved as a condition of the preliminary plan) approved as of November 15, 2004.

(c) Development standards. The development standards of the underlying zone apply except as modified by the requirements of this overlay zone. [Sec. 4.8.1.B](#)

(1) Restriction on Impervious Surface. No development may result in more than 8 percent impervious surface of the total area under application for development, except as noted below. [Sec. 4.8.5.B.3](#)

(A) Any impervious surface lawfully existing pursuant to a building permit or sediment control permit issued before November 15, 2004 that exceeds the 8 percent restriction, may continue or be reconstructed (provided that overall imperviousness does not increase). Sec. 4.8.5.B.2.a

(B) Any impervious surface which results from construction pursuant to a building or sediment control permit application filed with the Department of Permitting Services as of November 15, 2004, may continue or be reconstructed (provided that overall imperviousness does not increase). 4.8.5.B.2.a

~~————(C) No expansion of an impervious surface above the 8 percent restriction is allowed, except in accordance with the waiver provision of Subsection (e)(2).~~

2. Waiver. The Planning Board, or if no Planning Board action is required, the Director, may grant a waiver from the 8 percent impervious surface restriction subject to the following standards and procedures:
Sec. 4.8.5.B.4

~~(A) Written request. The request and basis for a waiver from the 8 percent impervious surface restriction must be made in writing to the Planning Board or Director.~~

(B) Review and action. The Planning Board or Director may grant a waiver from the 8 percent impervious surface restriction if the applicant shows by clear and convincing evidence that:

(i) the 8 percent impervious surface restriction would result in undue hardship to the applicant because of events or circumstances not caused or facilitated by the applicant, or the applicant can demonstrate that the impervious surface restriction would prevent the applicant from building the maximum number of affordable housing units otherwise allowed by the zone

(ii) the applicant complies with all applicable federal, state, and county water quality standards; and

(iii) the relief sought is the minimum needed to prevent the hardship and the applicant has applied all appropriate alternative techniques to minimize imperviousness.

(C) Limit on imperviousness for affordable housing waiver. If the Planning Board grants a waiver for affordable housing, it must approve the minimum increase necessary to allow the affordable housing. In no event may the waiver result in development with more than 10 percent impervious surface area.