

## **Key**

~~Text highlighted in bright green deals with floating zones and will be addressed in the coming months~~

~~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~~

9/14/12

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## **Division 59-C-11. MIXED-USE TOWN CENTER ZONE (MXTC).\***

### **~~Sec. 59-C-11.1. Where Applicable.~~**

~~No land may be classified in the MXTC zone or MXTC/TDR zone unless recommended in an approved and adopted master or sector plan.~~

### **Sec. 59-C-11.2. New construction, re-use of existing building, remodeling and reconstruction.**

Any lawful structure or building that existed before the applicable Sectional Map Amendment adoption date, is a conforming structure and may be continued, structurally altered, repaired, renovated or enlarged up to 10 percent of the gross building floor area or 10,000 square feet, whichever is less. However, any enlargement of the building that is more than 10 percent of the gross floor area or 10,000 square feet, or construction of a new building must comply with the standards of the MXTC zone or MXTC/TDR zone as applicable.

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### **Sec. 59-C-11.3. Methods of Development.**

Two methods of development are available under the MXTC zone or MXTC/TDR zone [Div. 4.5. Commercial/Residential Zones](#) and [Div. 6.3. Transferable Development Rights \(TDR\) Overlay](#)

(a) **Standard Method.** [Sec. 4.5.3.A. C/R Zones Standard Method](#)

A standard method project must comply with the applicable development requirements of 59-C-11.5 and the recommendations of the applicable master or sector plan. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

(b) **Optional Method.** [Div. 6.4. Optional Method Development-Commercial/Residential Zones](#)

Under the optional method of development, building height, and density levels greater than allowed under the standard method of development may be achieved for increased public use space. An optional method development must comply with the applicable development requirements of 59-C-11.5 and the recommendations of the applicable master or sector plan. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. ~~The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on site.~~

In the MXTC/TDR zone, residential density above that allowed under the standard method must use transferred development rights and must follow the special regulations of 59-C-11.5.2. [Div. 6.3. Transferable Development Rights \(TDR\) Overlay](#)

**59-C-11.3.1. Site Plan Approval. [Sec. 8.3.4.A. Site Plan- Applicability & Description](#)**

For the MXTC zone and the MXTC/TDR zone, site plan approval is required for:

1. A standard method development project that includes:
  - a. a net lot area of five acres or more;
  - b. certain uses with more than 20,000 square feet for each establishment as specified in [Sec. 59-C-11.4](#);
  - c. a modification of the maximum front setback or the street facade requirements; or
  - d. a recommendation for site plan review in the applicable master or sector plan.
2. All optional method development projects. For an optional method development project, the Board must find that the proposed development:
  - a. conforms to recommendations of the applicable approved and adopted master or sector plan;
  - b. is not detrimental to any existing development due to the size, intensity, design, scale and operational characteristics of its uses;
  - c. satisfies the public use space requirements of the zone;
  - d. takes maximum advantage of the topography, vistas, facade articulation, and other urban design elements to create an attractive physical environment;
  - e. provides adequate linkages among different functions or structures, open areas, public amenities, parking, and adjoining properties and streets; and
  - f. provides adequate parking and loading service areas with appropriate landscaping, screening, and lighting that will not adversely affect adjoining neighborhoods.

**Sec. 59-C-11.4. Permitted uses. [Sec. 3.1.7. Allowed Use Table](#)**

No use is allowed except as indicated in the following table:

— **Permitted Uses.** Uses designated by the letter “P” are permitted on any lot in the zone indicated, subject to all applicable regulations.

— **Special Exception Uses.** Uses designated by the letters “SE” may be authorized as special exceptions, in accordance with the provisions of [Article 59-G](#).

	MXTC <a href="#">CRT</a>	MXTC/ TDR <a href="#">CRT</a>
<b>(a) Residential<sup>2</sup>:</b>		
Dwellings <a href="#">Household Living</a>	P <a href="#">P</a>	P <a href="#">P</a>
Group home, small <a href="#">Residential Care Facility (up to 8 persons)</a>	P <a href="#">P</a>	P <a href="#">P</a>
Group home, large <a href="#">Residential Care Facility (9 to 16 Persons)</a>	P <a href="#">P</a>	P <a href="#">P</a>

Hotel or Motel <u>Hotel, motel</u>	P <u>P</u>	<u>P</u>
Housing and related facilities for the elderly or handicapped <u>Independent Living Facility for Seniors or Persons with Disabilities</u>	P <u>L</u>	P <u>L</u>
Life care facility <u>Residential Care Facility</u>	P <u>P</u>	P <u>P</u>
Personal living quarters <u>Personal Living Quarters (Up to 50 Units)/(Over 50 Units)</u>	P <u>L/C</u>	P <u>L/C</u>
<b>(b) Transportation, Communication and Utilities:</b>		
Parking of motor vehicles, off-street, in connection with any use permitted <u>Surface for use allowed in the zone, parking</u>	<u>P</u>	<u>P</u>
Public utility buildings and structures, telecommunications facilities <u>Utilities (various types)</u>	SE	SE
Radio and television broadcasting studio <u>Office</u>	SE <u>P</u>	SE <u>P</u>
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room <u>Wireless Communication on Existing Structure</u>	P <sup>6</sup> <u>L</u>	P <sup>6</sup> <u>L</u>
Taxicab stand <u>Taxi/Limo Facility</u>	P <u>L</u>	P <u>L</u>
<b>(c) Commercial<sup>2</sup>:</b>		
Antique stores, handicrafts or art sales <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Book store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Delicatessen <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Drug store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Eating and drinking establishment, excluding drive-in <u>Restaurant</u>	P <u>P</u>	P <u>P</u>
Eating and drinking establishment, drive-in <u>Drive-Thru Facility</u>	SE <u>L</u>	SE <u>L</u>
Florist shop <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Furniture store, carpet or related furnishing sales or service <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Garden supply shop <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Gift shop <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Grocery store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Hardware store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Jewelry store <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Newsstand <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Office supply store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Photographic supply store <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Pet sales and supply store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Specialty shop <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Variety and dry goods store <u>Retail/Service Establishment</u>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
<b>(d) Services:</b>		

Adult foster care home <a href="#">Residential Care Facility (up to 8 persons)</a>	P <u>P</u>	P <u>P</u>
Ambulance or rescue squad <a href="#">Public Use (except Utilities)</a>	P <u>P</u>	P <u>P</u>
Animal boarding place <a href="#">Animal Boarding and Care</a>	SE <u>C</u>	SE <u>C</u>
Appliance repair shop <a href="#">Retail/Service Establishment</a>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Art, music and photographic studio <a href="#">Artisan Manufacturing and Production</a>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>
Automobile filling station <a href="#">Fuel Sales</a>	SE <sup>3</sup> <u>C</u>	SE <sup>3</sup> <u>C</u>
Automobile fluid maintenance station <a href="#">Repair, Minor</a>	SE <sup>4</sup> <u>L</u>	SE <sup>4</sup> <u>L</u>
Automobile rental services, excluding automobile storage <a href="#">Light Vehicle/Equipment Sales and Rental (Indoor)</a>	P <sup>5</sup> <u>L</u>	P/SE <sup>5</sup> <u>L</u>
Automobile repair and service <a href="#">Repair, Major/Minor</a>	SE <sup>4</sup> <u>C/L</u>	SE <sup>4</sup> <u>C/L</u>
Barber and beauty shop <a href="#">Retail/Service Establishment</a>	P <u>P/L</u>	P <u>P/L</u>
Bank and other financial institution <a href="#">Retail/Service Establishment</a>	P/SE <sup>8</sup> <u>P/L</u>	P/SE <sup>8</sup> <u>P/L</u>
Car wash <a href="#">Car wash</a>	SE <u>C</u>	SE <u>C</u>
Charitable and philanthropic institution <a href="#">Charitable, Philanthropic Institution</a>	P <u>P</u>	P <u>P</u>
Clinic <a href="#">Clinic (More than 4 practitioners)</a>	P <u>P</u>	P <u>P</u>
Child daycare facilities:		
— Family day care home <a href="#">Family Day Care (Up to 8 Persons)</a>	P <u>P</u>	P <u>P</u>
— Group day care home <a href="#">Group Day Care (9 to 12 Persons)</a>	P <u>P</u>	P <u>P</u>
— Child day care center <a href="#">Day Care Center (13-30 Persons)/(Over 30 Persons)</a>	P <u>P/L</u>	P <u>P/L</u>
Daycare facility for not more than 4 senior adults and persons with disabilities <a href="#">Family Day Care (Up to 8 Persons)</a>	P <u>P</u>	P <u>P</u>
Domiciliary care home for more than 16 residents <a href="#">Residential Care Facility (Up to 8 Persons)/(9 to 16 Persons)</a>	P <u>P</u>	P <u>P</u>
Dry cleaning and laundry establishment, consisting of no more than 3,000 square feet of gross floor area <a href="#">Dry Cleaning Facility up to 3,000 SF</a>	P <u>L</u>	P <sup>1</sup> <u>L</u>
Dry cleaning and laundry pick-up station <a href="#">Retail/Service Establishment</a>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Duplicating services <a href="#">Retail/Service Establishment</a>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Educational institution <a href="#">Educational Institution (Private)</a>	SE <u>P</u>	SE <u>P</u>
Home occupation, no impact <a href="#">No Impact Home Occupation</a>	P <u>L</u>	P <u>L</u>
Home occupation, registered <a href="#">Low Impact Home Occupation</a>	P <u>L</u>	P <u>L</u>
Home occupation, major <a href="#">Major Impact Home Occupation</a>	SE <u>C</u>	SE <u>C</u>
Hospice care facility <a href="#">Residential Care Facility (Up to 8 Persons)/(9 to 16 Persons)/(Over 16 Persons)</a>	P <u>P</u>	P <u>P</u>
Hospitals, veterinary <a href="#">Veterinary Hospital/Office</a>	SE <u>L</u>	SE <u>L</u>
Laundromat, self-service <a href="#">Retail/Service Establishment</a>	P <sup>1</sup> <u>P/L</u>	P <sup>1</sup> <u>P/L</u>
Office, general <a href="#">Office</a>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>

Office, professional <u>Office</u>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>
Place of worship <u>Religious Assembly</u>	P <u>LP</u>	P <u>LP</u>
Publicly owned or publicly operated uses <u>Public Use (Except Utilities)</u>	P <u>P</u>	P <u>P</u>
Shoe repair shop <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Tailoring or dressmaking shop <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Research, development and related activities <u>Research and Development</u>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>
<b>(e) Cultural, Entertainment and Recreational:</b>		
Billiard parlor <u>Recreation and Entertainment Facility, Major/Indoor</u>	P <sup>1</sup> <u>C/P</u>	P <sup>1</sup> <u>C/P</u>
Bowling alley <u>Recreation and Entertainment Facility, Major/Indoor</u>	P <sup>1</sup> <u>C/P</u>	P <sup>1</sup> <u>C/P</u>
Health clubs and gyms <u>Health Clubs and Facilities</u>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>
Libraries and museums <u>Cultural Institution</u>	P <u>P</u>	P <u>P</u>
Private clubs and service organizations <u>Private Club, Service Organization</u>	SE <u>P</u>	SE <u>P</u>
Recreational or entertainment establishments, commercial <u>Recreation and Entertainment Facility, Major/Indoor/Outdoor</u>	P <sup>1</sup> <u>C/P/C</u>	P <sup>1</sup> <u>C/P/C</u>
Theaters, indoor <u>Recreation and Entertainment Facility, Major/Indoor</u>	P <sup>1</sup> <u>C/P</u>	P <sup>1</sup> <u>C/P</u>
<b>(f) Miscellaneous Uses</b>		
Accessory buildings and uses <u>Accessory buildings, uses and structures</u>	P <sup>1</sup> <u>P</u>	P <sup>1</sup> <u>P</u>
Signs in accordance with Article 59-F <u>Accessory buildings, uses and structures</u>	PP	P <u>P</u>
<b>(g) Uses of a light industrial nature<sup>7</sup></b>		
Manufacturing of electronic components, instruments and devices <u>Light manufacturing &amp; production</u>	<u>P</u>	<u>P</u>
Manufacturing of medical, scientific or technical instruments, devices and equipment. <u>Medical, scientific or technical manufacturing &amp; production</u>	P <u>L</u>	P <u>L</u>
Manufacturing and assembly of semi-conductors, microchips, circuits and circuit boards. <u>Light manufacturing &amp; production</u>	<u>P</u>	<u>P</u>
Printing and publishing. <u>Light manufacturing &amp; production</u>	<u>P</u>	<u>P</u>
Research, development and related activities. <u>Research and Development</u>	P <u>P</u>	P <u>P</u>
Sign making shop. <u>Light manufacturing &amp; production</u>	<u>P</u>	<u>P</u>
Warehousing and storage services:		
— Industrial and commercial users. <u>Storage Facility up to 10,000sf/over 10,000sf</u>	P <u>L</u>	P <u>L</u>
— Self-storage facilities. <u>Self-storage</u>	P <u>C</u>	P <u>C</u>

<sup>1</sup> Any non-residential use with more than 20,000 square feet per floor requires approval of a site plan under Division 59-D-3. (Attached to many Commercial and Service Uses) Sec. 4.5.2 Method of Development

<sup>2</sup> A commercial use other than a grocery store, is limited to a maximum of 40,000 square feet of gross floor area.

<sup>3</sup> A car wash with up to 2 bays may be allowed as an accessory use to an automobile filling station. (Attached to ‘Automobile Filling Station’) Sec.3.5.13.B. Fuel Sales- Definition

~~<sup>4</sup> Not abutting or confronting any lot which is in a residential zone and is not recommended for commercial or industrial use on a master plan; and not within 300 feet of an entrance to a school, park, playground, or hospital. (Attached to ‘Automobile Fluid Maintenance Station’ and ‘Automobile Sales and Service’)~~

~~<sup>5</sup> Up to 10 cars may be stored on site. (Attached to Automobile Rental Services, excluding Automobile Storage)~~

<sup>6</sup> Refer to section 50-A-6.14. (Attached to Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room) Sec 3.5.14.F Wireless Communication on Existing Structure- use standards

~~<sup>7</sup> Allowed only if recommended in a master or sector plan. (Attached to ‘Uses of a Light Industrial Nature’)~~

~~<sup>8</sup> A drive up bank or a bank with a drive in window must be approved by special exception subject to the general requirements of Section 59-G-1. (Attached to ‘Banks and Financial Institutions’)~~

**Sec. 59-C-11.5. Development standards. Div. 4.5. Commercial-Residential Zones-Standard Method Development Standards / Div. 6.4. Commercial-Residential Zones (Optional Method)**

Development standards applicable to the standard and optional method development for the MXTC zone and the MXTC/TDR zone are indicated by the letters “S” and “O”.

		<u>S Div 4.5 CR Standard Method</u>	<u>O Div 6.4 CR Optional Method</u>
1	Maximum residential density (units/acre)	8	20 <sup>1</sup>
2	Maximum non-residential FAR	0.35	1.0 <sup>1</sup>
3	Maximum Building height	42 feet	70 feet <sup>1</sup>
4	Minimum public use space		
	— For lots of up to 40,000 sf:	10% <sup>3</sup>	10% <sup>3</sup>
	— For lots of more than 40,000 sf:	10% <sup>3</sup>	20% <sup>3</sup>
5	Building setbacks: <sup>4</sup>		
	— Minimum front setback (feet)	0	0
	— Maximum front setback (feet) from a street line	10 <sup>2</sup>	10 <sup>2</sup>
	— Minimum side or rear setback from another lot in the same zone, or from an adjacent commercial zone (feet)	0	0
	— Minimum side or rear setback from an adjacent residential zone (feet)	20	20

<sup>1</sup> A master or sector plan may recommend a building height or density limit up to the maximum of the zone, and the appropriate mix of commercial, residential, and light industrial uses. Integrated into Zone Conversion Process. Notwithstanding any building height limitation recommended in a master plan or sector plan, the Planning Board may further limit the maximum allowable building height to achieve compatibility with surrounding land uses. However, the Planning Board may waive any height limit established in a master or sector plan, up to the maximum allowed in the zone, if expressly recommended in the applicable master or sector plan. In the MXTC/TDR zone,

residential density above the standard method must use transferred development rights and follow the special regulations in 59-C-11.5.2. [Div 6.3 Transferable Development Rights Overlay](#)

~~<sup>2</sup>—The Planning Board may allow a front setback from the public right-of-way greater than 10 feet subject to site plan review and the street facade controls of MXTC zone. Setbacks from the curb must be of sufficient width to provide for streetscape and adequate sidewalk space for pedestrians.~~

~~<sup>3</sup> Public use space may be provided indoors or outdoors and must conform to master or sector plan recommendations. [Sec 4.5.3.A C/R Zones Master Plan and Design Guidelines](#). Development on lots of up to 40,000 square feet may provide a portion or all of the required public use space as green area. Development on lots of more than 40,000 square feet must not provide all of the required public use space as green area. However, the Planning Board may waive any public use space requirement if expressly recommended in a master or sector plan. [Sec 4.5.3.A](#)~~

~~<sup>4</sup> The Planning Board may waive setback requirements if expressly recommended in a master or sector plan. [Sec 4.5.3.A C/R Zones Master Plan and Design Guidelines](#)~~

#### **59-C-11.5.1. Street facade requirements. [Sec. 4.5.4.E. C/R Standard Method Form Standards](#)**

1. Any development must provide at least one street facade for a minimum of 75 percent of the lot frontage along a street or other publicly accessible sidewalk, way or space. The street facade must be located within 10 feet of: 1) the front lot line or; 2) the public use space along a street or other publicly accessible sidewalk, way or space.

2. The ground floor portion of any street facade in a non-residential development must have windows and principal entrances to stores and retail establishments from the adjoining sidewalk or public use space. Off-street parking structures, if located along required street facades, must have retail or other pedestrian-oriented uses at the ground floor level fronting the street with direct access to the sidewalk or a public use space.

3. The Planning Board may modify a street facade requirement including the location or the minimum length of a required street facade during site plan review to achieve the objectives of the applicable master or sector plan. For lots with more than one street frontage, the Planning Board may establish which side would be subject to the street facade requirements during site plan review based on a layout that best achieves pedestrian oriented streets.

#### **59-C-11.5.2. Special regulations for development using transferable development rights in the MXTC/TDR zone. [Div. 6.3. Transferable Development Rights \(TDR\) Overlay](#)**

**59-C-11.5.21 Applicability.** The following procedures and regulations apply to the transfer of development rights to land classified in a MXTC/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable MXTC/TDR zone and conforming to the guidelines contained in the applicable master or sector plan. Any increase in dwelling units per acre allowed under the standard method of development of 59-C-11.5 must be based on a ratio of one single-family dwelling unit for each TDR, and 2 multi-family dwelling units for each TDR.

#### **59-C-11.5.22 General provisions.**

(a) A development right must be created, transferred and extinguished only by means of documents in a recordable form approved by the Planning Board, including an easement and appropriate releases. The easement must limit the future construction of one-family dwellings on a property in the RDT zone to the total number of development rights established by the zoning of the property minus all development rights previously transferred in accordance with this section, the number of development rights to be transferred by the instant transaction, and the number of existing one-family detached dwellings on the property.

(b) The transfer of development rights must be recorded among the land records of Montgomery County, Maryland.

(c) A property developed under a MXTC/TDR zone must conform to the requirements of Chapter 25A requiring MPDU's.

**Sec. 59-C-11.6. Off-Street Parking. Reference to Div. 7.2.5 Parking, Queuing & Loading – Commercial/Residential and Employment Zones**

(a) Required off-street parking must be provided pursuant to Article 59-E and off-street parking spaces for mixed-use projects must be provided pursuant to Sec. 59-E-3.1.

(b) Off-street parking for two or more properties may be grouped to serve more than one lot or establishment pursuant to Section 59-E-3.4 and may be eligible for reduction in required number of spaces pursuant to Section 50-E-3.1.

**~~59-C-11.6.1. Internal connection between parking lots.~~**

~~—Any new developments pursuant to this zone must provide for a pedestrian and vehicular connection to existing and proposed parking areas on at least one adjoining lot where feasible. The Planning Board may modify this requirement during site plan review if the applicant demonstrates that compliance with this requirement is not feasible or that compliance with the requirement would preclude the lot from meeting the off-street parking requirements on site. The Director may modify this requirement for projects not subject to site plan review.~~