

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

DIVISION 59-C-13, TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)

Sec. 59-C-13.1. Zones established. **Sec. 2.1.2.F.1.b Zones Established-Commercial Residential Town**

59-C-13.11. Zones permitted.

These zones are permitted in transit station development areas as defined in Section 59-A-2.1.

TOMX-2.0 **CRT**

TOMX-2.0/TDR **CRT with TDR overlay**

Sec. 59-C-13.2. Provisions of the Transit Oriented, Mixed Use Zones. **Sec. 2.2.4.C. Commercial Residential Town (CRT)**

59-C-13.21. Description, purpose, intent and general requirements.

59-C-13.211. Description. **Sec. 2.2.4.C. Intent Statements- Commercial Residential Town (CRT)**

Each Transit Oriented Mixed Use Zone is intended to be shown on a master plan or sector plan. The TOMX Zones are a continuum of euclidean zones with increasing densities permitted. The zones provide incentives to redevelop transit areas into distinct and compact mixed-use centers for housing and employment opportunities and include public use space and appropriate public facilities and amenities.

The TOMX 2.0 Zone is intended for medium density development adjacent to transit station development areas, as defined in Section 59-A-2.1.

59-C-13.212. Intent. **Sec. 2.2.4.C. Intent Statements- Commercial Residential Town (CRT)**

The intent of the TOMX Zones is to provide mixed use, transit and pedestrian oriented centers that include housing, commercial, biotechnology and research and development uses. These zones are intended to foster development by permitting an increase in density and height when such an increase conforms to master plan or sector plan recommendations. Land shall be classified in any transit oriented, mixed-use zone only if it is recommended in an approved and adopted master plan or sector plan. The TOMX zones are intended to accomplish the following:

(a) To create mixed use transit oriented development with an interconnected street system defined by buildings, open spaces, public facilities and amenities that are arranged to create a setting for community life.

(b) To provide incentives and flexible development standards for mixed-use, transit and pedestrian oriented development that create a compatible network of interconnecting streets, open squares, plazas, defined streetscapes, and civic and community oriented uses as recommended in applicable master and sector plans.

(c) To encourage land assembly in a compact and efficient form that achieves a compatible mix of uses in accordance with the approved and adopted master plan and sector plan.

(d) To provide housing, including affordable housing, near transit station development areas.

(e) To encourage Leadership in Energy and Environmental Design (LEED) standards for sustainable and efficient design.

(f) To improve access within the mixed use transit station development areas as well as from the surrounding communities.

59-C-13.213. Reserved.

59-C-13.214. Location.

~~Land classified in the TOMX 2.0 Zone must be located in transit station development areas as defined in Section 59-A 2.1.~~

59-C-13.215. Methods of development and approval procedures. Sec. 4.5.2 Methods of Development

Two methods of development are available in this zoning category.

(a) **Standard Method of Development:** Standard Method. The standard method requires compliance with a specific set of development standards and permits a range of uses and a density compatible with these standards. 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. Site plans must be approved in accordance with section 59-D-3. Sec 4.5.2.A CR Standard Method Development

(b) **Optional Method of Development:** The Optional Method of Development promotes additional densities and supports innovative design and building technologies to create a pedestrian-oriented and mixed-use development pattern. Approval of the Optional Method of Development is dependent on providing required public amenities and facilities. The public facilities and amenities are intended to support the additional densities permitted under the Optional Method of Development. The procedure for the approval of the Optional Method of Development is set forth in Section 59-D-2. Site plans must be approved in accordance with Section 59-D-3. If residential uses are included in a development, Moderately Priced Dwelling Units must be provided as required by Chapter 25A, and workforce housing units may be provided under Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. Sec 6.4.1 General Requirements -Commercial/ Residential Zones Optional Method Development4

59-C-13.22. Land uses. Sec. 3.1.7 Allowed Use Table

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

— **Permitted Uses.** The letter “P” in the appropriate column indicates the zones in which each use is permitted, subject to all applicable regulations under the Standard Method or the Optional Method of Development.

— **Special Exception Uses.** The letters “SE” in the appropriate column indicate the zones in which each use may be authorized as a special exception, in accordance with Article 59-G, under the Standard or the Optional

Method of Development respectively. Special exception uses in a development under the optional method are subject to approval by both the Planning Board and the Board of Appeals.

	TOMX 2.0 <u>CR-T</u>	
(a) Residential:	Standard	Optional
Dwellings. <u>Household Living</u>	P <u>P</u>	P <u>P</u>
Group home, small. <u>Residential Care Facility (9 to 16 Persons)</u>	P <u>P</u>	P <u>P</u>
Group home, large. <u>Residential Care Facility (Over 16 Persons)</u>	P <u>P</u>	P <u>P</u>
Hotel or motel. <u>Hotel, motel</u>	P <u>P</u>	P <u>P</u>
Housing and related facilities for senior adults or persons with disabilities. <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 (up to 8 persons)</u>	P <u>P</u>	P <u>P</u>
Personal living quarters. <u>Personal Living Quarters (Up to 50 persons); Personal Living Quarters (Over 50 Persons)</u>	P <u>L/C</u>	P <u>L/C</u>
	Standard	Optional
(b) Transportation, communication and utilities:		
Public utility buildings, structures and underground facilities. <u>Utilities (various)</u>	P	P
Radio and television broadcasting studio. <u>Office</u>	P <u>P</u>	P <u>P</u>
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room. <u>Wireless on Existing Structure</u>	P <u>L</u>	P <u>L</u>
Taxicab stand, not including storage while not in use. <u>Taxi/Limo facility</u>	P <u>L</u>	P <u>L</u>
(c) Commercial office and retail:		
Antique shops, handicrafts or art sales and supplies. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Book store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Eating and drinking establishment, excluding drive-in. <u>Restaurant</u>	P <u>P</u>	P <u>P/L</u>
Drug store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Florist shop. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Food and beverage store. <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 <u>P/L</u>	P <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 <u>P/L</u>	P <u>P/L</u>
Hardware store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Office supply store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Office, general <u>Office</u>	P <u>P</u>	P <u>P</u>
Office, professional including banks and financial institutions (excluding check cashing stores). <u>Office</u>	P <u>P</u>	P <u>P</u>

Offices for companies principally engaged in health services, research and development. <u>Research and Development</u>	P <u>P</u>	P <u>P</u>
Newsstand. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Photographic supply store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
	Standard	Optional
Pet sales and supply store. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Specialty shop. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
(d) Services:		
Adult foster care homes. <u>Residential Care Facility (Up to 8 persons)</u>	P <u>P</u>	P <u>P</u>
Ambulance or rescue squad, publicly supported. <u>Public Use (Except Utilities)</u>	P <u>P</u>	P <u>P</u>
Animal boarding place. <u>Animal Boarding and Care (</u>	SE <u>C</u>	SE <u>C</u>
Art, music and photographic studios. <u>Retail/Service Establishment</u>	P <u>P</u>	P <u>P</u>
Automobile filling station <u>Fuel Sales-</u>	SE <u>C</u>	SE <u>C</u>
Automobile rental services, excluding automobile storage and supplies <u>Light Vehicle/Equipment (Indoor)</u>	P <u>P/L</u>	P <u>P/L</u>
Barber and beauty shops <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Charitable and philanthropic institution <u>Charitable, Philanthropic Institutions</u>	P <u>P</u>	P <u>P</u>
Clinic. <u>Clinic (Up to medical practitioners) / (more than 4 practitioners)</u>	P <u>P</u>	P <u>P</u>
Child daycare facility:		
— Family day care. <u>Family Day Care (Up to 8 persons)</u>	P <u>P</u>	P <u>P</u>
— Group day care. <u>Group Day Care (9 to 12 persons)</u>	P <u>P</u>	P <u>P</u>
— Child day care center. <u>Day Care Center (13-30 persons) / (Over 30 persons)</u>	P <u>P</u>	P <u>P</u>
Daycare facility for not more than 4 senior adults and persons with disabilities. <u>Family Day Care (Up to 8 persons)</u>	P <u>P</u>	P <u>P</u>
Domiciliary care for no more than 16 senior adults. <u>Residential Care Facility (Up to 8 persons) / (9 to 16 persons)</u>	P <u>P</u>	P <u>P</u>
Dry cleaning and laundry pick-up station. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Duplicating services. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Educational, private institution. <u>Educational Institution (Private)</u>	P <u>P</u>	P <u>P</u>
Home occupation, no impact. <u>No Impact Home Occupation</u>	P <u>L</u>	P <u>L</u>
Home occupation, registered. <u>Low Impact Home Occupation</u>	P <u>L</u>	P <u>L</u>
	Standard	Optional
Home occupation, major. <u>Major Impact Home Occupation</u>	SE <u>C</u>	SE <u>C</u>
Hospice care facility. <u>Residential Care Facility (Up to 8 Persons) / (9 to 16 persons) / (Over 16 Persons)</u>	P <u>P</u>	P <u>P</u>
Hospital, veterinary. <u>Veterinary Office/ Hospital</u>	SE <u>L</u>	SE <u>L</u>

International public organization. <u>Office</u>	P <u>P</u>	P <u>P</u>
Place of religious worship. <u>Religious Assembly</u>	P <u>P</u>	P <u>P</u>
Publicly owned or publicly operated uses. <u>Public Use (Except Utilities)</u>	P <u>P</u>	P <u>P</u>
Self storage. <u>Self-Storage</u>	<u>C</u>	P ¹ <u>C</u>
Shoe repair shop <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Tailoring or dressmaking shops. <u>Retail/Service Establishment</u>	P <u>P/L</u>	P <u>P/L</u>
Universities and colleges providing teaching and research facilities. <u>Educational Institution (Private)</u>	P <u>P</u>	P <u>P</u>
(e) Research and Development and Biotechnology:		
Laboratories. <u>Research and Development</u>	P <u>P</u>	P <u>P</u>
Advanced Technology and Biotechnology. <u>Research and Development</u>	P <u>P</u>	P <u>P</u>
Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development. <u>Medical/Scientific Manufacturing and Production</u>	P <u>L</u>	P <u>L</u>
Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment. <u>Medical/Scientific Manufacturing and Production</u>	P <u>L</u>	P <u>L</u>
Research, development and related activities. <u>Research and Development</u>	P <u>P</u>	P <u>P</u>
(f) Cultural, entertainment and recreational:		
Auditoriums or convention halls. <u>Recreation and Entertainment Facility, Indoor/Outdoor/Major</u>	P <u>P/C/C</u>	P <u>P/C/C</u>
Billiard parlor. <u>Recreation and Entertainment Facility, Indoor</u>	P <u>P</u>	P <u>P</u>
Bowling alley. <u>Recreational and Entertainment Facility, Indoor</u>	P <u>P</u>	P <u>P</u>
Health clubs and gyms. <u>Health Clubs and Facilities</u>	P <u>P</u>	P <u>P</u>
	Standard	Optional
Libraries and museums. <u>Cultural Institution</u>	P <u>P</u>	P <u>P</u>
Park and playgrounds. <u>Parks, playground (Private)</u>	P <u>P</u>	P <u>P</u>
Private clubs and service organizations. <u>Private Club, Service Organization</u>	SE <u>P</u>	P <u>P</u>
Recreational or entertainment establishments, commercial. <u>Recreation and Entertainment Facility, Indoor/Outdoor/Major</u>	P <u>P/C/C</u>	P <u>P/C/C</u>
Theaters, indoor. <u>Recreation and Entertainment Facility, Indoor/Outdoor/Major</u>	P <u>P/C/C</u>	P <u>P/C/C</u>

⁺—Only if recommended in the applicable master plan or sector plan and limited to a maximum FAR of .75.
(Attached to Self-storage in Optional Method)

59-C-13.23. Development standards, Div. 4.5. Commercial/Residential Zones Standard Method Development and Div 6.4 Commercial/Residential Zones Optional Method Development

The development standards applicable to the Standard Method and Optional Method of Development are set forth in this section. In addition to the requirements specified in this table, all Optional Method of Development projects must be consistent with the guidelines established in the applicable master plan or sector plan.

	TOMX 2.0	
	Standard Sec. 4.5.4. (Standard Method)	Optional Sec 6.4.2 (Optional Method)
59-C-13.231. The minimum net lot area required for any development (in square feet): Provided, however, that a smaller lot may be approved for the TOMX zones where such lot is designed for one of these zones on an approved and adopted master plan or sector plan, the lot is located adjacent to or confronting another lot either classified in or under application for either zone, and the combined lots are subject to a single project plan subject to approval or approved by the Planning Board. The required minimum area does not prohibit a lot of less than 18,000 square feet for purposes of subdivision or record plat approval.		18,000
59-C-13.232. Maximum Building Coverage (percent of net lot area):	75	
59-C-13.233. Minimum Public Use Space (percent of net lot area):	10 ¹	20 ²
59-C-13.234. Maximum Density of Development³	FAR 0.5	FAR 2.0
	Standard	Optional
59-C-13.235. Maximum Building Heights:	50 feet	
— If adjoining or directly across the street from land which is recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less	35 feet	
59-C-13.236. Minimum Setbacks:		
— From an adjacent TOMX Zone ⁴	15 feet	
— From an adjacent commercial or industrial zone	20 feet	
— From an adjacent single family residential zone	25 feet	
— From a public right-of-way	10 feet	

¹ ~~The required standard method public use space may be reduced to 5% if the Planning Board finds that the reduction is necessary to accommodate the construction of MPDUs, including any bonus units, on site.~~

² The required optional method public use space may be reduced or eliminated to accommodate the construction of MPDUs, including any bonus density units, on-site, if an equivalent amount of public use space is provided off-site in the same transit station development area within a reasonable time. [Sec 7.3.6.C.1 Public Use Space Off-site Options](#)

³ ~~The maximum dwelling unit density or residential (FAR) may be increased in proportion to any MPDU density bonus provided on site.~~

⁴ ~~If the proposed building or the adjacent building has windows or apertures facing the lot line that provide light, access or ventilation to a habitable space the setback shall be 15 feet. If the adjacent building does not have windows or apertures no setback is required.~~

59-C-13.237. Special standards and guidelines for Standard Method and Optional Method of Development projects.

(a) Public use space, amenities and facilities: The mixed-use character of the Transit Oriented, Mixed Use Zones requires significant public amenities to create a transit and pedestrian-oriented mixed-use environment.

Public amenities and facilities are not limited to the definition in Section 59-A, but also include: pocket and urban parks, town squares, public plazas and water features, wide sidewalk areas, bus shelters, benches, special street lighting and paving, construction and enhancement of pedestrian tunnels and bridges, public art, landscaping of public areas, and improvements to pedestrian access to transit stations. Public amenities do not include road improvements or other capital projects that are required to provide adequate facilities in a timely basis to serve the property.

All public amenities must be in locations that are accessible to the public. The location, type and nature of the public amenities must be shown on any project plan and site plan as required by Section 59-D-3 and Section 59-D-2.

Sec 7.3.6 Public Use Space and Div 6.6 Public Benefit Points

(b) Site Plan Guidelines for the ~~Optional~~ and Standard Method of Development:

- Orient all buildings to streets, which will encourage pedestrian-oriented development.
- Locate off-street parking to the side, rear or below grade if feasible.
- Create a continuous building line with varied facade setbacks to accentuate open space and building entrances. Blank building facades should be avoided.
- Increase public safety and activity at street level with activating uses such as storefront retail, residential entrances, office lobbies, and restaurants.

Sec 4.5.4.. CR zones standard method development

~~————— Provide continuous, direct and convenient pedestrian and bicyclist pathways, and connections to transit stations.~~

~~————— Promote pedestrian safety with clearly designated crosswalks and sidewalks, and include street trees and landscaping on all streets.~~

~~————— Screen and locate service and loading areas to reduce visibility from any street.~~

~~————— Locate mechanical equipment within buildings or within a mechanical equipment penthouse. If mechanical equipment is located on a roof or is freestanding, it must be effectively screened. The provisions of this guideline do not apply in the case of one family residential development.~~

~~————— (c) Site Plan Streetscape Guidelines:~~

~~————— Provide street lighting designed to avoid an adverse impact on surrounding uses, while also providing a sufficient level of illumination for access and security.~~

~~————— Provide a canopy of closely spaced street trees along each street.~~

~~Provide street furniture such as benches, trash receptacles and planters.~~

~~Enhance crosswalk areas with accessible curb ramps unless prohibited by the Department of Transportation.~~

59-C-13.2371. Off-street parking. 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. [Reference to Sec 7.2.5 Commercial/Residential and Employment Zones Parking](#)

59-C-13.238. Special standards for the Optional Method of Development.

(a) **Density and mix of uses:** In approving the mix of uses and the proposed densities, the Planning Board must consider the size of the parcel, and the relationship of the existing and proposed building or buildings to the surrounding uses. The mix of uses and the proposed densities must conform to the approved and adopted master plan or sector plan. [Sec. 6.4.1. Commercial/Residential Zones Optional Method](#)

(b) **Building height and setbacks:** The maximum building height permitted for any building and the minimum building setback requirements must be determined in the process of project plan review. In approving height limits or setback requirements, the Planning Board must take into consideration the size of the lot or parcel, the relationship of existing and proposed buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height or setback of the building. The proposed building height and the proposed setbacks must conform to the approved and adopted master plan or sector plan. [Sec. 6.4.1. Commercial/Residential Zones Optional Method](#)

~~(c) **Transfer of public use space, density and mix of uses:** The Planning Board may approve the transfer of public use space, density and any mix of uses between lots within the same transit station development area. The transfer of density must be located away from the boundaries of the transit station development areas when the boundaries abut or confront either one family residential development or properties recommended for one family residential development in the approved and adopted master plan or sector plan. Any transfer of public use space and density and any mix of uses must be determined through the combined densities and use mixes of all properties involved in the density transfers, must conform to the approved and adopted master plan or sector plan and must be approved as part of a combined project plan for all relevant parcels in accordance with the provisions in Section 59-D 2 and Section 59-D 3.~~

59-C-13.239. Existing buildings and uses.

Any lawful structure, building or established use that existed before the applicable Sectional Map Amendment adoption date, is a conforming structure or use and may be continued, structurally altered, repaired, renovated or enlarged up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less. However, any enlargement of the building that is more than 10 percent of the gross floor area or 7,500 square feet, whichever is less, or construction of a new building must comply with the standards of the TOMX zones.

59-C-13.24. TOMX/Transferable development rights zones. [Sec. 4.8.4. Transferable Development Rights \(TDR\) Overlay](#)

59-C-13.241. Method of development.

The following 2 methods of development apply in any TOMX/TDR zone:

(a) **Standard method of development.** Development under the standard method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone, except that greater residential densities may be permitted pursuant to Section [59-C-](#)

13.242. Development must also conform to the special regulations for developments in a TOMX zone using transferable development rights contained in Section 59-C-13.243.

(b) **Optional method of development.** Development under the optional method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone and must conform to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the master or sector plan, however greater residential densities may be permitted pursuant to Section 59-C-13.242. Development must also conform to the special regulations for developments using transferable development rights contained in Section 59-C-13.243. The special regulations require conformance to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan.

	TOMX-2.0/TDR
59-C-13.242. Development Standards-Transferable Development Rights Zone(s):	
(a) Land uses. Uses allowed in the TOMX/TDR zones are those uses allowed in the following zone(s):	TOMX-2.0
(b) Development standards- Standard method must conform with each of the following:	
- Maximum density of development (FAR) without TDRs	0.5
The Residential FAR may be increased by a maximum of 20% by the use of TDRs.	
- Maximum dwelling units per acre without TDRs	20
Dwelling units per acre may be increased by a maximum of 20% by the use of TDRs.	
- All other development standards must be in accord with the development standards applicable to the following zones and as specified in the special regulation provisions of Section <u>59-C-13.243:</u>	TOMX-2.0
(c) Development standards- Optional method of development must conform to each of the following:	
- Maximum density of development (FAR) without TDRs:	1.6
The Residential FAR may be increased by a maximum of 20% by the use of TDRs.	
- Maximum dwelling units per acre without TDRs	40
Dwelling Units per acre may be increased by a maximum of 20% by the use of TDRs.	
- All other development standards must comply with the development standards of the applicable zone and as specified in the special regulation provisions of Section <u>59-C-13.243:</u>	TOMX-2.0

59-C-13.243. Special regulations for development using transferable development rights in the TOMX/TDR zone. **Div. 6.3. Transferable Development Rights (TDR) Overlay Optional Method Regulations**

59-C-13.2431. Applicability. The following procedures and regulations apply to the transfer of development rights to land classified in a TOMX/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TOMX/TDR zone. The development must conform to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan. Any increase in the residential FAR above the residential FAR and dwelling units per acre allowed under the standard and optional methods of development of 59-C-13.215 and 59-C-13.23 must not exceed

20% of the maximum dwelling units per acre or FAR permitted without TDRs and must be based on a ratio of one single-family dwelling unit for each TDR, and 2 multi-family dwelling units for each TDR; however, within a designated Metro Station Policy Area, a ratio of three multi-family dwelling units for each TDR and two one-family units for each TDR applies.

59-C-13.2432. 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 TOMX/TDR zone must conform to the requirements of Chapter 25A requiring MPDUs.

(d) A property developed with transferable development rights must include MPDUs as required by Chapter 25A and workforce housing units as required by Section 59-A-6.18 and Chapter 25B. The number of MPDUs and any resulting bonus density must be calculated after the base density of a property has been increased by a transfer of development rights. The calculation of the number of workforce housing units must be based on the total number of market dwelling units in the development including any transfer of development rights, but not counting any MPDUs or resulting bonus density units. The MPDU density bonus does not require the acquisition of additional development rights.

59-C-13.2433. Development approval procedures under the standard and optional method of development.

(a) A request to use transferred development rights under the standard or optional method must be in the form of a preliminary subdivision plan in accordance Chapter 50.

(b) A site plan must be submitted and approved in accordance with the provisions of Division 59-D-3.

(c) The Planning Board must approve a request to use transferred development rights if the request:

(1) is in accordance with provisions of this chapter;

(2) is in accordance with Chapter 50, title "Subdivision of Land";

(3) conforms to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and setbacks; in all other respects the development is consistent with the applicable master or sector plan; and

(4) achieves a desirable development compatible with both site conditions and surrounding existing and future development.

(d) Prior to Planning Board approval of a final record plat for a subdivision using transferred development rights, an easement to the County in the form required by Section 59-C-2432(a) above limiting future construction of dwellings on a property in the RDT zone by the number of development rights received must be recorded among the land records of Montgomery County, Maryland.

(e) A final record plat for a subdivision using transferred development rights must contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of this conveyance required by Section 59-C-2432(b)

59-C-13.2434. Development standards applicable to the standard and optional method of development.

(a) The final density achieved for any property located in a TDR receiving area developed under the procedures herein must be determined by the Planning Board and must conform to the site plan provisions (Division 59-D-3) and subdivision regulations (Chapter 50).

(b) In making the determination as to the final density, the Planning Board will consider the following factors:

(1) conforms to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and setbacks; in all other respects the development is consistent with the approved master or sector plan;

(2) preserves environmentally sensitive and priority forest areas, and mitigates unavoidable impacts on the natural environment;

(3) facilitates good transit serviceability and creates a desirable and safe pedestrian environment; and

(4) achieves compatibility with surrounding land uses.