



## New Zoning Code: Companion Document

An Article by Article Summary of Changes Made in the  
New Zoning Code

September 2014



## ARTICLE 59-1. GENERAL ZONING ORDINANCE PROVISIONS

### DIVISION 1.2. PURPOSE

#### Section 1.2.1. Purpose of Chapter 59

- The purpose clause has been modified for consistency with the Maryland Land Use Article § 4-202.

### DIVISION 1.3. APPLICABILITY

#### Section 1.3.3 Annexations

- Removed a paragraph regarding the July 1, 1997 annexation of Takoma Park that included provisions about how to apply for zoning under Montgomery County regulations during the transition period of March 31, 1997 to July 1, 1997.

### DIVISION 1.4. DEFINED TERMS

#### Section 1.4.2. Specific Terms and Phrases Defined

- Definitions for uses are referenced in this Section, but are actually defined in Article 3 (Uses and Use Standards). Similarly, terms related to development standards are referenced in this section, but are actually defined in Article 4 (Development Standards for Euclidean Zones).
- Modified usable area definition –Eliminated the current required deduction for “All land indicated on the master plan of highways as a right-of-way with a width of 100 feet or more.” Also modified the required deduction for area within environmental buffers. The new deduction is based on a percentage of tract within the environmental buffer rather than the subjective standard in the old code.

## ARTICLE 59-2. ZONES AND ZONING MAP

### DIVISION 2.1. ZONES ESTABLISHED

#### Section 2.1.2. Zoning Categories

- Zones are clearly divided into zoning categories that are used throughout the text of the ordinance and Euclidean and Floating zones are clearly identified:
  - Euclidean Zones
    - Agricultural zone: AR
    - Rural Residential zones: R, RC, RNC (the old code classifies these as Agricultural zones)
    - Residential zones
      - Residential Detached zones: RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40
      - Residential Townhouse zones: TLD, TMD, THD
      - Residential Multi-Unit zones: R-30, R-20, R-10



- Commercial/ Residential zones: CRN, CRT, CR
- Employment zones: GR, NR, LSC, EOF
- Industrial zones: IL, IM, IH
- Overlay zones
- Floating Zones (the Floating zones are entirely new)
  - Residential Floating: RDF, TF, AF
  - Commercial/Residential Floating: CRNF, CRTF, CRF
  - Employment Floating: GRF, NRF, EOFF, LSCF
  - Industrial Floating: ILF, IMF

### **Section 2.1.3. Establishment of Zones**

- The RDT zone has a new name- the Agricultural Reserve (AR) zone.
- The following Residential zones are consolidated with other Residential zones as follows: RMH-200 and R-150 are now R-200; R-MH is now R-60.
- There are new Euclidean Townhouse zones (TLD, TMD, THD).
- All of the commercial zones are now one of the Commercial/Residential or Employment zones (see zone translation table for details).
- The RMX, MXTC, TOMX, TMX-2, CBD, TS-R , TS-M, MXN and MXPB zones are now either CRT or CR zones.
- I-1, I-2, I-4, R&D, and RS are now one of the new Industrial zones. I-3 is now the Employment Office (EOF) zone.

## **DIVISION 2.2. ZONING MAP**

### **Section 2.2.1. Zoning Maps**

- This section authorizes the adoption of a digital zoning map that will replace the mylar maps currently used as the County's official zoning record. It also details how authorized changes can be made to the digital zoning layer, how changes to the digital zoning layer are to be recorded, and how a certified copy of the digital zoning layer can be obtained from the Planning Department.

### **Section 2.2.4. Zoning and Development within Rights-of Way**

- In the new code, zone boundaries run to the centerline of each right-of-way, compared to the old code, which zones the rights-of-way to the least intensive zone of the properties on either side of the right-of-way.

### **Section 2.2.5. Zones Retained from Previous Ordinance**

- This Section identifies the zones from the old code that are retained on the zoning map, but that can no longer be requested by a property owner under a Local Map Amendment or applied to



any additional property under a Sectional Map Amendment. These zones are: R-H, PCC, PD, PNZ, PRC, T-S, RT-6.0, RT-8.0, RT-10.0, RT-12.5, and RT-15.0.

## ARTICLE 59-3. USES AND USE STANDARDS

### DIVISION 3.1. USE TABLE

#### Section 3.1.1. Key to the Use Table

- The new code has three levels of use approval: Permitted (P), Limited (L), and Conditional (C).
  - Permitted use is the same as in the old code. These uses are allowed by right in the use table by the letter P.
  - Limited use is a new term; it indicates a use that while allowed by right requires the applicant to meet specific, objective use standards as indicated in this Article. Many of the uses indicated as a limited use represent permitted uses in the current code that reference footnotes regarding specific use standards.
  - Conditional use is also a new term, it replaces the old term “special exception.” The approval process for a conditional use is similar to that of a special exception, but the decision on a conditional use is made by the Hearing Examiner, and only an appeal of the Hearing Examiner’s decision goes to the Board of Appeals.

#### Section 3.1.2. Use Classifications

- There are now six categories of uses: Agricultural, Residential, Civic and Institutional, Commercial, Industrial, and Miscellaneous.
- The use table lists both individual uses and use groups (a group of uses characterized by a single term or phrase (i.e., Nursery or Accessory Agricultural Uses). Use groups are in small caps and the row is shaded in a light grey.
- There are some grandfathered uses that are not indicated with a “P”, “L”, or “C” in the use table. These are uses that appeared in the use table in the old code, but had footnotes associated with them that only allowed their operation if they were already in existence. This includes an Educational Institution (Private) in the AR zone and a Camp Retreat, nonprofit if in the RC zone. See Section 3.1.2.D for more information.
- The new code includes parameters that DPS should consider when determining if a proposed use is similar enough in impact, nature, function, and duration to be considered a use listed in the use table.



### Section 3.1.5. Transferable Development Rights

- The new code allows a Bed and Breakfast in the AR zone if the lot is encumbered by a recorded TDR if the Bed and Breakfast is accessory to Farming. The old code always prohibited a Bed and Breakfast on a property encumbered by a recorded TDR.

### Section 3.1.6. Use Table

- The new code contains one use table that shows the uses allowed in each zone.
- The use table provides a reference to the definition of each use and any applicable use standards.

### Summary of Use Changes

For detailed information regarding use changes in each zone see the Use Comparison Tables. Below are examples of some of the major use changes in the new code.

- New Uses
  - *Community Garden* is allowed in all zones except Heavy Industrial (IH).
  - *Urban Farming* is allowed as a limited use in the Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones.
- Use Consolidation: In several cases, a number of uses listed in the old code are consolidated under one term in the new code
  - *Agricultural Processing* now includes Grain Elevator, Manufacturing of Mulch and Compost, Milk Plant, and Saw Mill. *Agricultural Processing* is a conditional use in the AR, R, and RC zones.
  - *Residential Care Facility* now includes Group Home, Respite Care Home, Adult Foster Care Home, Domiciliary Care Home, Hospice Care Facility, Life Care Facility, Nursing Home, and Sanitarium. *Residential Care Facilities* are regulated by the number of residents in the new code.
  - *Retail/Service Establishment* replaces a number of specific uses such as Appliance stores, Banks and financial institutions, Barber and beauty shops, Department stores, Furniture stores, Millinery shops, Specialty shops, Wearing apparel stores, etc. *Retail/Service Establishments* are regulated by the size of the establishment in the new code.
  - *Office* replaces General offices; Offices, banking or financial; Offices, business; Offices, insurance claims; Offices, general; Offices, professional, etc.



- Uses Not Retained
  - Registered Living Units
  - Guest houses are no longer allowed in R-200, R-90, or R-60.
  - Clinic, medical or dental, for 5 or more medical practitioners in the Residential zones.
- Use Modification
  - Country Inns are now allowed by Conditional Use instead of Local Map Amendment.
  - Drive-thru now applies to pharmacies and banks in addition to restaurants.

### Use Standards

- Use standards incorporate many of the footnotes in the old code; however, some use standards have been updated in the new code.
- For some uses, both general and specific use standards apply. For example, both an Attached Accessory Apartment and a Detached Accessory Apartment must meet the use standards for all accessory apartments under Section 3.3.3.A.2. An Attached Accessory Apartment must also meet its own specific set of use standards under Section 3.3.3.B.2 while the use standards specific to a Detached Accessory Apartment are under Section 3.3.3.C.2. Make sure to identify all of the applicable use standards.

## ARTICLE 59-4. DEVELOPMENT STANDARDS FOR EUCLIDEAN ZONES

### DIVISION 4.1. RULES FOR ALL ZONES

#### Section 4.1.1. Development Options

- Optional method MPDU development now applies when a development of more than 20 units provides *more* than 12.5% MPDUs, compared to the old code where providing the required 12.5% enabled a developer to take advantage of optional method development standards and building types.

#### Section 4.1.3. thru 4.1.6. Building Types

- Building types are a new addition to the zoning code. They regulate the form applicable to development within each zone. Instead of having just one set of development standards for all building types within a zone (as is currently the case), the new code provides development standards for each building type allowed within the zone. Illustrations and tables related to building types have been added as well.



### Section 4.1.7. Measurement and Exceptions

- Area, Lot, and Density
  - The definition of *lot* is modified to address issues of private street and open space frontage and remove unnecessary language about development standards that are addressed by the dimensional standards in the zone and provisions for nonconformities.
  - The new code includes definitions for *tract* and *site*.
  - *Lot width*, with various qualifiers (*at the front property line*, *at the front setback line*, and *at the front building line*) has replaced the definition for lot frontage with no substantive change in intent. *Lot width at the front setback line* is a new measurement.
- Placement
  - *Setbacks* replace the ‘yard requirements’ from the old code.
  - *Corner Lots* have a front setback and a side street setback. Applicants may choose which side of the corner lot is the front; however, in the Agricultural, Rural Residential, and Residential zones the front and side street setbacks are equivalent.
  - *Build-to Area* is a new requirement for standard method development in Commercial/Residential, LSC, and EOF zones. The build-to-area is the area on the lot where a certain percentage of the building facade must be located.
  - *Parking setbacks* are a new requirement for standard method development in the Residential Multi-Unit and LSC zones.
  - The definition of *Coverage* clarifies which structures should **not** be included in the coverage calculation (e.g. walkways, bay window, uncovered porches or patios).
  - A provision for environmental site design facilities has been added to the setback encroachment section to allow rainwater collection or harvesting systems to project 3 feet into side and rear setbacks.
- Building Height
  - In all zones, the number of stories is no longer a component of measuring height.
  - In the Agricultural, Rural Residential, and Residential zones:  
In the old code, height is measured differently in the R-60 and R-90 zones than in the rest of the Agricultural, Rural Residential, and Residential zones. The new code takes the measurement of height in the R-60 and R-90 zones and applies it to all of the Agricultural, Rural Residential, and Residential zones. Height is still measured to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel



roof or to the highest point of roof surface of a flat roof, but for all Agricultural, Rural Residential, and Residential zones, it is now measured from average grade regardless of how far set back from the street the building is. The new code also discourages terracing in these zones as it does not allow for a building's height to be increased by the height of the terrace.

- In the Commercial/Residential, Employment, and Industrial zones:  
The new code measures height from the level of approved curb grade, instead of the level of approved street grade, opposite the middle of the front of the building.
- Added rooftop renewable energy systems to the height encroachments section to modernize the code and be flexible in allowing for other energy sources.
- Form standards are included in the new zoning code.
  - Building elements (gallery/awning, porch/stoop, and balcony) are regulated building elements in standard method development across all zones.
  - Building orientation, transparency requirements, and limitations on blank walls are elements of standard method development in the Commercial/Residential, LSC, and EOF zones.

#### **Section 4.1.8. Compatibility Requirements**

- Setback and height compatibility requirements are adapted from the Commercial/Residential requirements in the old code.
  - Setback compatibility requirements will now apply to a property in a Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone that:
    - abuts a property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use and;
    - proposes development of an apartment, multi use, or general building type.
  - Height compatibility requirements will now apply to a property in a Commercial/Residential, Employment, Industrial, or Floating zone that:
    - abuts or confronts a property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use and;
    - proposes development of any building type.

### **DIVISION 4.2 AND DIVISION 4.3. AGRICULTURAL AND RURAL RESIDENTIAL ZONES**

#### **General Changes**

- Deleted the sum of side yards requirement because it is redundant with the side setback requirements.





- Deleted the standard pertaining to the percent of rear yard that the accessory structure is allowed to because it is redundant with the other coverage requirements for the lot. The accessory structure still needs to be placed behind the rear building line of the principal building on residential lots.
- Increased the rear setback for accessory structures from 10' to 15' to provide added protection for neighboring properties given that an accessory structure can be the same height as a house, or higher if it's an agricultural structure.

#### **Section 4.2.1. AR (formerly RDT) zone**

- Added a "voluntary conservation lot alternative." This alternative maintains the density of one dwelling unit per 25 acres, but caps the lot size at 3 acres, and requires the remainder of the 25-acre site to be placed in a conservation or agricultural easement, or a land trust. This change was made to codify a method of development encouraged by the planning department, which is a way of preserving more agricultural land.

#### **Section 4.3.5. RNC zone**

- Created development standards for the duplex and townhouse building type in standard and optional method.
- Added an actual minimum (5%) for the required common open space. The old code says that common outdoor area is required in addition to rural open space, but it doesn't provide a minimum requirement.

### **DIVISION 4.4. RESIDENTIAL ZONES**

#### **Section 4.4.1. thru Section 4.4.10. Residential Detached Zones**

##### **General Changes**

- Deleted the standard pertaining to the percent of rear yard that the accessory structure is allowed to because it is redundant with the other coverage requirements for the lot. The accessory structure still needs to be placed behind the rear building line of the principal building on residential lots.
- Deleted the following from the definition of Infill Development: the construction proposed is more than one story, excluding any basement if the average elevation of the finished grade is higher along the front of the dwelling than the average elevation along the rear of the dwelling. This language was removed because stories are no longer being used to determine height therefore infill compatibility standards are proposed to apply to all houses regardless of the number of stories.



- Optional Method MPDU Development
  - New requirement for a minimum amount of useable area for MPDU optional method development.
  - MPDU optional method now requires the provision of more than 12.5% MPDUs.
  - Removed the different lot size and setback requirements that detached house MPDU units can take advantage of, which are captured in footnote 7 of the old code. Instead, the proposed draft recommends slight reductions in lot sizes for duplex, and townhouse units under MPDU optional method development; there is no distinction anymore in allowable minimum lot size for MPDU lots and non-MPDU lots for detached houses.
  - Side and rear setbacks within the development are determined at site plan; however, where abutting a property not included in the application, then the setbacks equal those of a detached house in the abutting zone (rather than increasing the setback by 2 feet for every foot in height over 35 feet, height is capped at 40 feet).
  - Accessory structure setbacks are treated in a fashion similar to principle dwelling setbacks; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the setbacks equal that of a detached house in the abutting zone.
  - Maximum coverage standards provided for each zone are new. Under the optional method the maximum lot coverage is greater than that allowed under the standard method. This modification is compatible with the reduced lot size requirement providing more flexibility in design and placement while also ensuring adequate buildable area.
  - Common open space is required for all MPDU development in a Residential Detached zone. Currently, the amount of "green area" required is a fixed number of square feet per duplex or townhouse unit. The proposed draft requires a percentage of usable area be provided as common open space. This modification provides more flexibility in design and provides an outdoor area that better fits the scale of development.
- Optional Method Cluster Development
  - A specification is provided that allows the Planning Board to approve cluster development on a smaller site if cluster development is recommended for the site in a master plan (currently allowed under R-90 and R-60), or if the Board finds the smaller site would be more suitable for environmental reasons (currently allowed under RE-2C and RE-1), which is more broadly written than the old language.



- Modified minimum lot sizes (reducing them all, except for detached house in the R-90 zone), reduced minimum lot width for townhouses, and required open space (increasing this since a specific amount is not currently required).
- Setback from a public street has been decreased by 5' for RE-2C and RE-1 and increased by 5' in the R-60.
- Front setback from a private street or open space is new, as is side street setback.
- Side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then the side setback equals that of a detached house in the abutting zone.
- Accessory structure setbacks are treated in a similar fashion; side and rear setbacks are determined at site plan except, where abutting a property not included in the application, then, for most building types, the side setback equals that of a detached house in the abutting zone.

**Section 4.4.7. R-200** (includes former R-150 and RMH-200 zones)

- Decreased the height of accessory structures from 50' to 35' for better compatibility and neighbor protection and to prevent an accessory structure in this residential area from being the same height as a house.

**Section 4.4.11 thru Section 4.4.13. Townhouse Zones**

- The Euclidean Townhouse zones are new. The development standards are based on, but not identical to, the old floating RT zones. These new Townhouse zones can be applied by Sectional Map Amendment during the master plan process.

**Section 4.4.14. thru Section 4.4.16. Multi-Unit Zones**

- Added height maximum to the R-10 zone because none existed in the old code.
- Added accessory structure setbacks for MPDU optional method development.
- Added parking setback requirements.
- Deleted the standard for the minimum lot width at front building line for a corner lot and for any lot used for multiple-group dwellings. This requirement was deleted to simplify the development standards.
- Deleted the standard for the setback from the street center line. This requirement was deleted for simplification and consistency with setback measure for other zones.
- Deleted the standard for distance between buildings.



- Modified the side setback for compatibility requirements to apply when abutting an Agricultural, Rural Residential, or Residential zone.
- Deleted the standard for maximum building height on a lot of less than 5 acres.
- Added development standards for detached house, duplex, and townhouses as all of these building types are now allowed in the Multi-Unit zones.

## **DIVISION 4.5. COMMERCIAL/RESIDENTIAL ZONES**

### **Key Changes to Properties Translated to a Commercial/Residential zone through the DMA**

- Modification/ modernization of many development standards. No minimum lot area required for development.
- Maximum height and density are designated on the zoning map.
- Optional method development in CR and CRT zones requires the provision of public benefit points. In the CR zone, optional method development requires the purchase of BLTs.
- Changes to development approval procedures.
- Development standards for all building types included for standard method development.

### **General Changes to the Commercial/Residential zones from the Old Code**

- The applicability and requirements of limited uses have been modified. In the new code, a limited use indicates that the use is permitted if it meets the applicable limited use standards in Division 3.2 through Division 3.7. The limited use standards may require the approval of a site plan for a specific use.
- Specific requirements for residential amenity space not retained.
- Increased incentive for MPDUs above 12.5% (see Division 4.7.)

### **Section 4.5.2. Density and Height Allocation**

- CRT and CR may be mapped at a height of 35' in the new code (they must be mapped at a height of at least 40' in old code)
- FAR Averaging is allowed over 2 or more non-contiguous properties in CR and CRT.
- Mixed-use zones remapped through the DMA are designated with a "T." The "T" designation allows these properties to take advantage of the MPDU density bonus in Chapter 25A in addition to a few other provisions from the current code. Existing Commercial/Residential zones translated through the DMA may take advantage of a new density bonus for providing



greater than 12.5% of residential units as MPDUs (see Division 4.7. Optional Method Public Benefits).

### **Section 4.5.3. Standard Method Development**

- New development standards, including form standards for all building types are included

### **DIVISION 4.6. EMPLOYMENT ZONES**

- The NR, GR, and EOF zones are new.

#### **Key Changes to Properties Translated to an Employment Zone through the DMA (including LSC zone)**

- Modification/ modernization of many development standards. No minimum lot area required for development.
- Maximum height and density are designated on the zoning map.
- FAR averaging is allowed.
- Optional method development in LSC and EOF zones requires the provision of public benefit points.
- Changes to development approval procedures.
- In the NR, GR, and EOF zones, up to 30% of the gross floor area built on the subject site may be for Household Living uses.
- Certain industrially-zoned properties that were remapped through the DMA are designated with a “T.” The “T” designation allows these properties to take advantage of the MPDU density bonus in Chapter 25A.

### **DIVISION 4.7. PUBLIC BENEFIT DESCRIPTIONS AND CRITERIA**

#### **In General**

- Modified public benefit points to include the LSC and EOF zones.

#### **Diversity of Uses and Activities- Moderately Priced Dwelling Units**

- Projects can earn more points for providing more than 15% of the total units as MPDUs. There is no distinction in the number of public benefit points achieved if providing more than 15% MPDUs compared to more than 12.5% MPDUs. Instead, for projects that provide at least 15%



MPDUs, one less benefit category must be satisfied. If a project provides at least 20% MPDUs does not have to satisfy any other benefit category.

- Additional points are granted for every 2 bedroom MPDU that is provided that is not otherwise required and every 3 bedroom MPDU provided.
- For zones without a “T” designation:
  - If a project provides more than 12.5% MPDUs, the height limit of the zone and master plan does not apply to the extent required to provide the MPDUs.
  - If a project provides more than 12.5% MPDUs, but less than 15%, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.
  - If a project provides at least 15% MPDUs, the gross floor area of all MPDUs is exempt from the calculation of FAR.

### **Protection and Enhancement of the Natural Environment**

- Modification of the BLT requirement calculation in the CR zone, LSC zone, and TMX-2 zone converted to CR through the DMA.
  - In the CR zone, an applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 7.5% of the incentive density floor area. One BLT, equivalent to 9 points, must be made for every 31,500 sf of gross floor area comprising the 7.5% incentive density floor area.
  - In the LSC zone, an applicant must purchase BLT easements, or make payments to the ALPF, for any floor area above 0.5 FAR, in an amount equal to 50% of the incentive density for (1) each 31,500 square feet of floor area of residential, non-residential, and Life Sciences between 0% and 40% of the project’s floor area; and (2) each 60,000 square feet of Life Sciences between 40% and 50% of the project’s floor area.
  - An Overlay has been added to accommodate the BLT provisions of the TMX zone in Germantown, which was converted to a Commercial/Residential zone (See Section 4.9.7, Germantown Transit Mixed Use Overlay Zone).
- An applicant can accrue points for the purchase of TDRs if the project is located within a TDR Overlay zone.

## **DIVISION 4.8. INDUSTRIAL ZONES**

### **Key Changes to Properties Translated to a New Industrial Zone through the DMA**

- Modification/ modernization of many development standards (except height and density).



- Maximum height and density are designated on the zoning map.
- FAR Averaging is allowed.
- Changes to development approval procedures

#### **DIVISION 4.9. OVERLAY ZONES**

**The following Overlay zones are not retained in the new code:**

- The US 29/Cherry Hill Road Employment Area Overlay zone of the Fairland Master Plan is not recommended to be retained in the pending White Oak Science Gateway Master Plan.
- The Chevy Chase Comparison Retail Overlay zone is no longer necessary for the following reasons: the purposes of the overlay zone are directly related to the recommendations of the master plan, which is now a consideration of every site plan, standard method development through zone conversion will result in a lower maximum square footage than that established in the Overlay zone, and the mix of development, as indicated in the Overlay, will be set by the C, R, and H elements in the new zone. In addition, a site plan is now required at a lower threshold (generally required of projects greater than 10,000 SF or 40' in height that abuts or confronts a property in an Agricultural, Rural Residential, Residential, or Residential Floating zone) and the findings required by the Overlay zone are now findings required of all site plans.
- The Retail Preservation Overlay zone for the Wheaton CBD was removed by the recent sector plan.
- The Retail Preservation Overlay zone for the Arlington Road District of the Bethesda CBD sector plan was not retained, as the recommended 0.5 FAR is captured by new zoning limit in the Commercial/Residential zones. The requirement of a site plan will be captured for all development above 10,000 sf or 40' in height that abuts or confronts properties in an Agricultural, Rural Residential, Residential, or Residential Floating zone.

**The following Overlay zone has been renamed in the new code** (the section reference matches ZTA 14-09, note the March 5 document):

- **Section 4.9.6. Community-serving Retail (CSR) Overlay zone** – renamed the Neighborhood Retail Overlay zone to the Community-serving Retail (CSR) Overlay zone, to avoid confusion with the NR zone.

**The new code includes 4 new Overlay zones to retain certain provisions from the old code.** (The section references match ZTA 14-09, note the March 5 document):



- **Section 4.9.9. Germantown Transit Mixed Use (GTMU) Overlay Zone-** preserves a provision in the current code that requires applicants with an optional method development project to purchase BLT easements equal to 50% of the incentive density floor area.
- **Section 4.9.10. Regional Shopping Center (RSC) Overlay Zone-** allows Montgomery and Wheaton Malls to retain certain zoning provisions from the old code.
- **Section 4.9.15. Transferable Development Rights (TDR) Overlay Zone-** replaces the various TDR zones.
  - The maximum residential density allowed on each property, with the purchase of TDRs, is designated on the zoning map (in units/acre for Rural Residential and Residential zones and in FAR in the Commercial/Residential and Employment zones).
  - Change in TDR development from dwelling units per acre to square footage for mixed-use zones that were converted to a Commercial/Residential zone through the DMA: each TDR purchased allows the construction of a 2,400sf of residential density, except in a Metro Station Policy Area, which allows the construction of 4,400sf of residential density.
  - Change in TDR development in Rural Residential and Residential zones: Standardized the ratio of dwelling units for each TDR so that one TDR gets you one detached house unit, 2 units in a duplex or townhouse building type, or 3 units in an apartment building type. This standardization creates consistency across zones.
- **Section 4.9.16. Twinbrook (TB) Overlay Zone-** retains a provision from the current code that allows residential uses in the IL zone near the Twinbrook metro station.

## ARTICLE 59-5. FLOATING ZONE REQUIREMENTS

### Summary of General Changes

- Article 59-5 is a new approach to Floating zones.
- There are 4 categories of Floating zones:
  - Residential Floating zones: Residential Detached Floating; Residential Townhouse Floating; Apartment Floating
  - Commercial/Residential Floating zones: CRN Floating; CRT Floating; CR Floating
  - Employment Floating zones: EG Floating; EOF Floating; ELS Floating
  - Industrial Floating: IL Floating; IM Floating





## ARTICLE 59-6. GENERAL DEVELOPMENT REQUIREMENTS

### DIVISION 6.1. SITE ACCESS

#### Section 6.1.3. General Access Requirements

- Added provision that land classified in a Residential Detached zone may not be used for driveway or vehicular access to any land that is not in a Residential Detached zone (some exceptions apply).

#### Section 6.1.4. Driveway Access

- Modified the minimum driveway width requirements based on zone.
- Added maximum dimensions for driveway width and driveway radius in Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones to minimize paving and allow for Environmental Site Design (ESD) and tree canopy in parking lots.
- Added requirement that only 2 driveways are allowed per 300 feet of site frontage along any street.
- Added requirement that sites with an improved alley with a right-of-way of at least 20' in width must allow access to on-site parking from the alley, and limit new curb cuts along the public right-of-way.
- Added requirement that a vehicle must access a corner lot with only one driveway or a through lot from the street with the lower roadway classification, unless the roadway with the lower roadway classification is a residential road.

### DIVISION 6.2. PARKING, QUEUING, AND LOADING

#### Section 6.2.2. Applicability

- Parking requirements do not apply to structures on the National Register of Historic Places or to expansions of less than 500 square feet in gross floor area or impervious cover.

#### Section 6.2.3. Calculation of Required Parking

- Added carshare space requirement for facilities with 50 or more reserved parking spaces. A carshare space counts towards the minimum number of parking spaces required, but it does not count against the parking maximum in Parking Lot Districts and Reduced Parking Areas.
- Under certain circumstances, an on-street parking space in a right-of-way may count towards the minimum parking requirement.



- Bicycle parking is based on the use and is split between long-term (for residents and employees) and short-term (for visitors).
- Parking Lot Districts have both a minimum number of required spaces and a maximum number of spaces allowed. The maximum number of spaces may not be exceeded.
- Added provisions for *Reduced Parking Areas* which encompass any property not in a Parking Lot District that is:
  - In a CR, CRT, LSC, EOF, or equivalent Floating zone, or
  - In a CRN, NR, GR, or equivalent Floating zone that is within 1 mile of a transit station or stop.
- Similar to Parking Lot Districts, Reduced Parking Areas have both a minimum number of required spaces and a maximum number of spaces allowed. However, within Reduced Parking Areas, an applicant cannot make a payment under Chapter 60 to provide fewer spaces. An applicant can provide more parking spaces than allowed by the maximum indicated in the parking table if all the excess spaces are made available to the public and are not reserved. Also, an Alternative Compliance Plan may be approved to provide less than the minimum, or to exceed the maximum number of spaces required.
- Modified Adjustments (Credits) to Vehicle Parking
  - Adjustments to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum.
  - Instead of the credit for certain uses located near metro in the old code, generally reduced the minimum parking requirements in the new code in Parking Lot Districts and Reduced Parking Areas.
  - New adjustment factors for restricted housing types
    - MPDUs and Workforce House: 0.5
    - Age-Restricted Housing: 0.75
    - Senior Housing: 0.5
  - New adjustments for: Car-Share Space located near an entrance, Unbundled Residential Space, Federal Tenants, NADMS Percentage Goal, Carpool/Vanpool Spaces, Bike-Share Facility, and the provision of Changing Facilities provided in excess of the amount required.
  - Provisions for general office buildings, including share-a-ride districts and share-a-ride outreach areas not retained.



#### Section 6.2.4. Parking Requirements

- Formatted vehicle and bicycle parking requirements into a table
  - Modified vehicle parking requirements, primarily in the Commercial/Residential and Employment Zones (see *Parking Requirement Comparison Table*). The parking requirements are based on a property's zone.
  - Modified some of the metrics used.
  - Modified bicycle parking requirements in all zones. The new code's bicycle parking requirements are by, rather than as a percentage of vehicle parking requirements. The baseline maximum number is the maximum that can be required of the applicant; however, they can choose to provide bicycle parking spaces above the baseline maximum.

#### Section 6.2.5. Vehicle Parking Design Standards

- Required parking spaces in the new code must be within ¼ mile (instead of 500 ft) from the entrance to the establishment served by the parking spaces.
- In Parking Lot Districts or Reduced Parking Areas, up to 20% of required spaces may be for compact vehicles. Outside of Parking Lot Districts or Reduced Parking Areas, up to 10% of required spaces may be for compact vehicles. In the old code, only 10% of spaces may be for compact cars, and only where the configuration of the site prevents exclusive use of standard space dimensions. Also, the old code only allows these types of spaces for non-residential buildings.
- Added requirement that all parking facility drainage must satisfy the principles of Environmental Site Design as specified in the Stormwater Management Manual adopted by the County.

#### Section 6.2.6. Bicycle Parking Design Standards

- New standards for long-term bicycle parking including a requirement and design standards for a shower and changing facility for tenants with more than 50,000 square feet of nonresidential gross floor area
- New standards for short-term bicycle parking spaces and bicycle racks.

#### Section 6.2.7. Queuing Design Standards

- New queuing space requirements for establishments with a drive-thru (includes drive-thru restaurants, banks, pharmacies, etc.)



### Section 6.2.8. Loading Design Standards

- Added new standards for off-street loading, including specifications for the required number of off-street loading spaces based on the use and the gross floor area.

### Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting

- Structured parking garage must have a living green wall or public art along 50% of the ground floor of any garage wall facing a right-of-way, residential property, or open space.
- Perimeter planting along a street right-of way must be 6' wide (current code is 10') and must have a tree planted every 30' on center (40' in current code).
- Modified the specifications for perimeter plantings that abut other properties.
- Modified the surface parking lot canopy tree requirement: Each parking lot must maintain a tree canopy of 25% coverage at 20 years of growth (current code requires a minimum of 5% of the parking lot to be landscaped with shade trees.)
- Modified requirements for landscaped islands in surface parking lots: Landscaped islands must be at least 100 contiguous square feet each and the islands must cover at least 5% of the parking lot.
- The intent of the old code's "parking facility plan" is in this section, but it's no longer called a parking facility plan and it is required for 10 or more spaces instead of 25 or more. The new code does not retain the *Parking Facilities Plan* from the current code, but parking lot and circulation is reviewed during conditional use approval, site plan review, or building permit (for a project that has 10 or more spaces)

## DIVISION 6.3. OPEN SPACE AND RECREATION

### Section 6.3.3. Allowed and Prohibited Features in Open Space

- New code provides clarity about what features are allowed and prohibited in each type of open space.

### Section 6.3.5. Common Open Space

- Common open space is redefined to focus on recreational uses.
- This requirement takes the place of "green area" and "public use space" in certain zones where it is more appropriate to focus on outdoor areas for residents and visitors.

### Section 6.3.6. Public Open Space



- Public open space is renamed (from public use space) and redefined. The intent is largely the same, but because the requirement for public open space has been reduced in many cases, the design regulations have been strengthened.

#### **Sec. 6.3.7. Amenity Open Space**

- In the old code, the term “green area” was misleading as it was not required to be green; it could include pavement such as walkways, plazas, etc. The new code redefines “green area” as “amenity open space” which better reflects how this open space is utilized in the zones where it applies. This focus is appropriate and reflects the use of this area for circulation, landscaping, and (usually) passive recreation.

#### **Section 6.3.8. Open Space Landscaping and Outdoor Lighting**

- New code has requirements for native species (in Rural Open Space) and a minimum percentage of permeable area and tree canopy coverage in each type of open space.
- New limitations on illumination at the property line for each type of open space.

#### **Section 6.3.9. Recreation Facilities**

- Codifies requirement for recreation facility guidelines and the provision of recreation facilities for any project with more than 19 residential units.

### **DIVISION 6.4. GENERAL LANDSCAPING AND OUTDOOR LIGHTING**

#### **Section 6.4.1. thru Section 6.4.3. Intent, Applicability, and General Landscaping Requirements**

- Mostly new requirements.
- Includes base requirements for plant material, definitions of required landscape elements, and compliance procedures.
- Prohibits species included on the Maryland Invasive Species Council’s list of invasive aquatic or terrestrial plants in required ornamental planting areas.
- Fence or wall height is now measured from the lowest level of grade (instead of ground) immediately under the fence or abutting a wall.
- New requirement that the maximum height of a fence or wall in any front setback in a Residential zone is 4 ft.

#### **Section 6.4.4. General Outdoor Lighting Requirements**

- Mostly new requirements.
- Outdoor fixtures must be a full or partial cutoff.



- New limitations on the height of freestanding lighting fixtures based on the use of the facility and the location of the freestanding fixture.
- Light sources are limited to incandescent, fluorescent, light-emitting diode, metal halide, or color-corrected high-pressure sodium.
- On-site Illumination is limited to 0.5 footcandles or less at the lot line, but conditional uses must limit illumination to 0.1 footcandle at any lot line that abuts a lot with a detached house that is not located in a Commercial/Residential or Employment zone.

#### **DIVISION 6.5. SCREENING REQUIREMENTS**

- New specifications applying to standard method development for screening based on use, building type, and abutting zone.

#### **DIVISION 6.6. OUTDOOR STORAGE AND DISPLAY**

- New specifications for the size, location, height, and screening of outdoor storage and display areas.

#### **DIVISION 6.7. SIGNS**

- Sign Installer License provisions are not retained.
- *Regulations For Signs In Urban Renewal Areas That Are Within An Arts and Entertainment District* is not retained in new code.

#### **DIVISION 6.8. ALTERNATIVE COMPLIANCE**

- New provision that allows an applicant to propose an alternative method of compliance for any requirement in Article 59-6, with the exception of the sign requirements in Division 6.7.

### **ARTICLE 59-7. ADMINISTRATION AND PROCEDURES**

#### **Summary of General Changes**

- Plans are designed to contain cumulative submittal requirements and findings to reduce redundancy.
- Hearing dates are set upon acceptance of application.
- Includes deadlines for the issuance of the resolution following the close of record for all amendments.



## **DIVISION 7.2. DISTRICT COUNCIL APPROVALS**

### **Section 7.2.1. Local Map Amendment**

- The new code requires that an applicant submit an initial application to the Planning Department to evaluate it for completeness before the applicant can file the application with the Hearing Examiner for acceptance. The Planning Department has 10 days to evaluate the initial application.
- The Development Plan, Diagrammatic Plan, and Schematic Development Plan are replaced by a single plan: a floating zone plan. The floating zone plan is intended to streamline the submittal requirements necessary for approval of rezoning. The floating zone plan does not require the submission of a finalized Stormwater Management Concept, a Preliminary Forest Conservation Plan (these will be required during preliminary and site plan review), or an APFO finding. An approved Natural Resources Inventory (NRI) is not an application requirement, but the submittal requirements for “existing site conditions and vicinity” include components of an NRI. In addition, other retained submission requirements have been modified to include only those elements necessary to determine the appropriateness of the requested rezoning.
- A new requirement that the Hearing Examiner must schedule a public hearing on the application to begin within 120 days after the application is accepted.
- Amendments to the floating zone plan (currently called development plan). Under current code, an applicant can change any element of the development plan (as long as they meet the standards of the floating zone) without a public hearing, although a hearing is required if there is public opposition to the amended plan. The Council doesn’t have to make the same findings for a development plan amendment.

In the new code, any request to increase height or density, add a previously disallowed use, decrease a setback, or change any binding element requires an applicant to follow the same procedures as an original LMA application. The Planning Board may approve changes to a floating zone plan that don’t increase height or density, add a previously disallowed use, decrease a setback, or change any binding element.

- Modified findings to concentrate on “big picture” issues, allowing site plan review to cover detailed review.
- New fee payment method: 25% of fee must be paid directly to the Planning Department; 75% must be paid to the Office of Zoning and Administrative Hearings (Section 7.6.5.A.3).
- No longer require noticing in newspapers

### **Section 7.2.3. Sectional and District Map Amendment**

- Simplified language regarding Sectional Map Amendment submittal requirements.



#### **Section 7.2.4. Zoning Text Amendment**

- New code requires Council to hold a public hearing within 60 days after the introduction of a Zoning Text Amendment.

### **DIVISION 7.3. REGULATORY APPROVALS**

#### **Section 7.3.1. Conditional Use**

- Conditional use applications must be approved as complete by the Planning Department before they can be submitted to the Hearing Examiner.
- The deciding body is only required to send notice for the hearing, rather than for both the application and the hearing. Notice must be sent to all abutting and confronting property owners, civic and homeowners associations within ½ mile, and any municipality within ½ mile.
- The Planning Director must submit the report to the Hearing Examiner 7 days (instead of 5) before the scheduled hearing.
- Introduced a conditional use plan to replace the site plan required as part of a current Special Exception application.
- Submittal requirements include concurrent review of forest conservation, stormwater management, and traffic issues rather than requiring pre-approval.
- General findings for all conditional uses have been modified.
- Where a conditional use plan is required, a site plan will not be required for that portion of the site, unless it is part of an optional method development with a sketch plan, it is required by the use standards, or if required by the Hearing Examiner or Board of Appeals.
- Modified the time frame for the conditional use plan hearing to within 120 days of the application's acceptance instead of no sooner than 60 days after notice.
- Conditional use applications are decided by the Hearing Examiner. If a request to present oral argument is made following the Hearing Examiner's report and decision, only then does the Board of Appeals make the final decision regarding the conditional use.
- If a conditional use application is denied, a new application proposing substantially the same development on the same property may not be filed within 18 months (instead of 36 months) after the final decision.
- In the current code, an affirmative vote of 4 members of the Board of Appeals is generally required to approve a special exception. In the new code, a conditional use application will only go to the Board of Appeals if there is opposition, in the form of a written request for oral argument, to the Hearing Examiner's decision. If only 4 members of the Board of Appeals are present, an affirmative vote of only 3 members is needed to approve the conditional use.





- New fee payment method: 25% of fee must be paid directly to the Planning Department; 75% must be paid to the Office of Zoning and Administrative Hearings (Section 7.6.5. Fees).
- The language that allows for minor amendments to conditional uses has been modified to allow for more flexibility in approving amendments administratively. However, it is at the discretion of the Hearing Examiner if she/he feels the proposed amendment could have a substantial adverse effect on the surrounding community; in addition, if an objection to the amendment is made in a timely manner, a public hearing is required

#### **Section 7.3.2. Variance**

- The Board of Appeals is only required to send notice for the hearing, rather than for both the application and the hearing. Notice must be sent to all abutting and confronting property owners, civic and homeowners associations within ½ mile, and any municipality within ½ mile.
- The findings are modified to allow more flexibility for the Board of Appeals to grant variances. There is a new finding that the special circumstances or conditions needing the variance cannot be the result of actions by the applicant.

#### **Section 7.3.3. Sketch Plan**

- The new code codifies that an applicant must submit an initial application to the Planning Department to evaluate it for completeness before the application is officially accepted. The Planning Department has 10 days to evaluate the initial application.
- Additional application requirements, including a site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, zoning, and legal descriptions of the proposed development site and within 500 feet of the perimeter boundary.
- If a sketch plan is approved, the applicant has 36 months to submit a site plan unless the resolution established a longer period of time.

#### **Section 7.3.4. Site Plan**

- The new code codifies that an applicant must submit an initial application to the Planning Department to evaluate it for completeness before the application is officially accepted. The Planning Department has 10 days to evaluate the initial application.
- The Planning Board must hold a public hearing within 120 days after the date an application is accepted instead of the current requirement for the Planning Board to take final action after 45 days.
- For standard method development, requirement for a site plan is determined by threshold instead of by zone. The thresholds under standard method development are based on adjacent



zoning, gross floor area, number of units, and/or building height. In some cases, a limited use may require a site plan.

- Submittal requirements include concurrent review of forest conservation, stormwater management, and traffic issues rather than requiring pre-approval.
- Modified findings to include requirements for substantial conformance with master plans and applicable guidelines.
- Codified deadlines for submittal of comments to Development Review Committee.
- A new requirement that the site plan expires unless a certified site plan is approved within 24 months.

## **DIVISION 7.4. ADMINISTRATIVE APPROVALS**

### **Section 7.4.1. Building Permit**

- Removed language that is redundant with Chapter 8.

### **Section 7.4.3. Sign Permit**

- Removed language pertaining to a Sign Installer License.

## **DIVISION 7.5. NOTICE STANDARDS**

- Application Signs are no longer provided by the Hearing Examiner. Applicants must produce their own signs, subject to the specifications in the new code.
- Website posting is required for most types of applications (except Use-and-Occupancy, Sign Permit, and Sign Variance Applications)

## **DIVISION 7.6. SPECIAL PROVISIONS**

- New requirement that the Planning Board must annually adopt a plan review schedule for the calendar year that reflects the timeframes required for review of sketch plan and site plan.

## **DIVISION 7.7. EXEMPTIONS AND NONCONFORMITIES**

### **Section 7.7.1. Exemptions**

- All grandfathering language in this section is new, but Section 7.7.1.D, Residential Lots and Parcels incorporates the intent of some of the grandfathering provisions of the old code. Section 7.7.1.D allows for issuance of a building permit for a detached house on any Residential or Rural Residential zoned lot identified on a plat recorded before October 30, 2014, without regard to the street frontage and lot size requirement of its zoning; provisions for pre-1958 parcels and pre-1928 lots; some reconstruction due to damage in a flood plain; and provisions for building



additions for houses in a housing project constructed before January 1, 1945 and houses developed under the density control standards in the R-150 zone.

- The new code makes all existing structures and site designs existing on October 30, 2014 that don't meet the standards of the new code conforming, allowing them to be continued, renovated, repaired, and reconstructed as long as the floor area, height, and footprint are not increased (except as otherwise provided in this Section).
- Any use that was conforming or not nonconforming on October 29, 2014 that would be made nonconforming by the new ordinance is deemed conforming but may not expand.
- Any development following a plan or application that was filed or approved before October 30, 2014 must proceed under the old code (in terms of both zoning standards and procedures). In addition, amendments to these plans may proceed under the standards and procedures of the old code for 25 years (until October 30, 2039), with certain limitations. The only exception is that a plan following the standards and procedures of the old code can come in for a minor site plan amendment under the new code to amend the parking requirements of the previously approved application in a manner that satisfies the parking requirements of the new code.
- Any development that is a result of a Local Map Amendment approved before October 30, 2014 must satisfy the green area requirements of the zone that were in effect when the LMA was approved and any binding elements until the property is either subject to a Sectional Map Amendment, rezoned by Local Map Amendment, or the binding element is revised through an amendment to the development plan. (Pending approval of ZTA 14-09)
- Until October 30, 2039 development existing on October 30, 2014 that is on land located in a Commercial/Residential, Employment, or Industrial zone may increase the floor area by the lesser of 10% or 30,000 square feet, with additional expansion rights for small properties, provided that the building height and density don't exceed the property's zoning in effect on October 29, 2014 and the development meets a couple of other requirements. Any expansion beyond this amount, or any expansion after the 25 year limitation, must satisfy the standards and procedures of the new code.

#### **Section 7.7.2. Nonconforming Use**

- This section allows for the continuation of a lawful nonconforming use provided that the use is not expanded, is not reestablished if abandoned (unless it is a historic resource), and a mechanism to establish that a use on the property is lawfully nonconforming.

#### **ARTICLE 59-8. ZONES RETAINED FROM PREVIOUS ORDINANCE**

The zones in this Article are substantively the same as those in the old code. These zones, however, cannot be requested by a property owner under a Local Map Amendment or applied to any additional property under a Sectional Map Amendment.

