

Section 4.9.17. Upper Paint Branch (UPB) Overlay Zone

A. Purpose

The purpose of the UPB Overlay zone is to:

1. Protect the water quality and quantity and biodiversity of the Upper Paint Branch Watershed and its tributaries, including but not limited to the headwater tributary areas of Good Hope, Gum Springs, Right Fork and Left Fork, and the segment of the Paint Branch mainstem north of Fairland Road.
2. Regulate the amount and location of impervious surfaces to maintain levels of infiltration, control erosion, and allow natural processes to filter water and control temperature.
3. Regulate land uses that could adversely affect the high quality, cold water stream resource. This resource is afforded the highest order of protection through its designation by the State of Maryland as Use III Waters.

B. Exemptions

The following are exempt from Section 4.9.17:

1. Any impervious surface lawfully existing allowed by a building permit issued before July 1, 2007 may continue or be reconstructed under the development standards in effect when the building permit was issued.
2. Any impervious surface that results from construction under a building permit may be constructed or reconstructed under the development standards in effect on July 31, 2007 if:
 - a. the building permit application was pending before DPS on July 31, 2007; or
 - b. the building permit is for a lot in a subdivision approved before July 31, 2007, if the subdivision was approved for fewer than 20 housing units.
3. Any impervious surface resulting from an addition or accessory structure to an existing detached house must not be counted against any calculation of the 8% impervious surface restriction.

C. Land Uses

1. Except as listed in Section 4.9.17.C.2 and Section 4.9.17.C.3, the land uses of the underlying zone apply. The use standards of the underlying zone apply unless the development standards in Section 4.9.17.D are more restrictive, in which case Section 4.9.17.D must be followed.
2. The following uses are restricted in the UPB Overlay zone:
 - i. Any Landscape Contractor or Nursery must be certified as an organic grower by the State of Maryland or another approved certifying body;
 - ii. Any Golf Course, Country Club or golf driving range must have an Integrated Pest Management program; and
 - iii. Any Equestrian Facility must have an approved Soil Conservation Water Quality Plan from the Montgomery Soil Conservation District.
3. If validly existing on July 1, 1997, the uses in Section 4.9.17.C.2 may be continued under the requirements in effect at the time the use was established. Any expansion requires compliance with the UPB Overlay zone.
4. The following uses are prohibited in the UPB Overlay zone:
 - a. Farm Airstrip, Helistop;
 - b. Helipad, Heliport;
 - c. Pipelines used for interstate transmission of petroleum products; and

d. Vehicle Services.

D. Development Standards

Impervious surfaces are restricted to a maximum of 8% of the tract of any application for development.

E. Waiver

The applicable review body may grant a waiver of the development standards in Section 4.9.17.D if it finds that:

1. The 8% impervious surface limit would cause an undue hardship on the applicant because of events or circumstances not caused or facilitated by the applicant;
2. The application otherwise complies with all applicable Federal, State, and County water quality provisions;
3. The relief sought is the minimum needed to prevent the undue hardship; and
4. Alternative water quality and control techniques are used to meet the purposes of Section 4.9.17.