

ARTICLE 59-1. PURPOSE, APPLICABILITY, AND USE OF THE CODE

DIV. 1.1. IN GENERAL

SEC. 1.1.1. CITATION 1-2

SEC. 1.1.2. EFFECTIVE DATE 1-2

SEC. 1.1.3. REPEAL OF EXISTING ZONING REGULATIONS 1-2

SEC. 1.1.4. AUTHORITY..... 1-2

SEC. 1.1.5. SEVERABILITY..... 1-2

DIV. 1.2. PURPOSE

SEC. 1.2.1. PURPOSE OF CHAPTER 59..... 1-3

DIV. 1.3 APPLICABILITY

SEC. 1.3.1. APPLICABILITY 1-4

SEC. 1.3.2. NONAPPLICABILITY TO CERTAIN MUNICIPALITIES 1-4

SEC. 1.3.3. ANNEXATIONS 1-4

DIV. 1.4 USE OF THE CODE

SEC. 1.4.1. CODE APPROACH 1-5

SEC. 1.4.2. COORDINATION WITH OTHER REGULATIONS 1-5

SEC. 1.4.3. TABLES, ILLUSTRATIONS, AND EXAMPLES 1-5

SEC. 1.4.4. CODE ORGANIZATION 1-5

SEC. 1.4.5. STEP-BY-STEP USE OF THE CODE 1-6

The following Article is part of the Consolidated Draft. Please be advised that it is in draft form; all references to Divisions and Sections have not been cross-checked in this draft. Editor's notes in red text and highlighted in yellow, [Editor's Note], appear throughout the draft to inform the reader of areas that may require additional research and editing.

Div. 1.1. In General

Sec. 1.1.1. Citation

This Chapter is known as the “Zoning Code” of the Montgomery County Code and may also be referred to as the “Zoning Ordinance”. Within this Chapter, the Zoning Code is referred to as this or the “Code” or “Chapter”.

Sec. 1.1.2. Effective Date

The effective date of this Code is the date of the District Council resolution adopting the Code.

Sec. 1.1.3. Repeal of Existing Zoning Regulations

The existing zoning ordinance entitled, “Montgomery County Code Zoning Ordinance: Chapter 59”, as adopted on January 18, 2005 and as subsequently amended is repealed as of the effective date of this Code. The adoption of the revised Code, however, does not affect nor prevent any pending or future prosecution of, or action to abate, an existing violation of prior regulations.

Sec. 1.1.4. Authority

The provisions of this Chapter are adopted in accordance with the zoning and planning authority enumerated in the [Annotated Code of Maryland, Articles 28 and 66B](#), as amended, and other applicable county and state enabling authority.

Sec. 1.1.5. Severability

- A. All provisions of this Chapter are severable.
- B. All provisions of any ordinance enacted in the future that amend or add any provision to the Code are severable unless such ordinance specifically provides that its provisions are not severable.
- C. The finding by a court that some provision of the Code or any subsequent amendment is unconstitutional and void does not affect the validity of the remaining portions of the Code unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the legislative intent of the District Council.
- D. Additional severability provisions may be contained elsewhere in the Code.

Div. 1.2. Purpose

Sec. 1.2.1. Purpose of Chapter 59

- A. The zoning regulations set out in this Chapter are hereby adopted for the purpose of protecting and promoting the health, safety, morals, comfort, and welfare of the present and future inhabitants of the District and constitute the zoning ordinance text.
- B. Interpretation and application of this Chapter are the basic and minimum requirements for the protection of public health, safety, morals, comfort, and welfare. This Chapter will be liberally interpreted in order to further its underlying purpose.

Div. 1.3. Applicability

Sec. 1.3.1. Applicability

This Chapter applies to that portion of the Maryland-Washington Regional District in Montgomery County, except for certain municipalities as stated in [Sec. 1.3.2.](#), and applies to all buildings, structures, lands, and uses over which the County has jurisdiction under the constitution and the laws of the State of Maryland and of the United States.

Sec. 1.3.2. Nonapplicability to Certain Municipalities

This Chapter does not apply to the municipal corporations of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg, and Washington Grove.

Sec. 1.3.3. Annexations

A. Annexation of Additional Area to the Regional District

Any area annexed to the Maryland-Washington Regional District after the effective date of this Ordinance on [Xxxx, #, #####](#) will immediately upon annexation be automatically classified in the most nearly comparable zone until a sectional map amendment for such area has been adopted by the District Council. The Commission must recommend to the District Council zoning for the annexed area within 6 months after the effective date of such annexation.

B. Annexation of the Area of the City of Takoma Park (“Annexation Area”) on July 1, 1997

Approval of an application under this Chapter for an area within the Annexation Area may be based on an approval made before July 1, 1997 under the zoning and development standards of Prince George’s County if the approving body finds that the earlier approval fulfills substantially the same purpose as and offers substantially the same protection as the zone assigned to the property by the District Council of Montgomery County.

Div. 1.4. Use of the Code

Sec. 1.4.1. Code Approach

- A. The Code is designed to implement and be consistent with the goals, objectives, policies, and strategies of the General Plan, Functional Plans, Master and Sector Plans, and supporting adopted or approved Guidelines and Regulations. This is achieved by providing complete, integrated, effective, and concise zoning regulations.
- B. The various zoning districts allow different uses, development standards, methods of development, and regulations as a toolkit to effect diverse land use policies across the county.
- C. Whenever there is a requirement in this Chapter that a finding be made that an application conforms to or is consistent with the applicable Master or Sector Plan and/or guidelines, such finding need not be made where the deciding body finds that events have occurred or circumstances exist to render such compliance inappropriate with respect to such application.

Sec. 1.4.2. Coordination with Other Regulations

- A. The use of buildings and land within Montgomery County is subject to all other regulations as well as the Code, whether or not such other provisions are specifically referenced in the Code. Reference to other regulations or provisions of the Code is for the convenience of the reader. The lack of a cross-reference does not exempt a property, building, structure, or use from other regulations.
- B. If a regulation adopted by the Code imposes a higher standard than those required under another statute or regulation, the regulation adopted under the Code controls. If the other statute or regulation imposes a higher standard, that statute or regulation controls.

Sec. 1.4.3. Tables, Illustrations, and Examples

The Code contains numerous tables, illustrations, and examples in order to assist the reader in understanding and applying the Code. To the extent that there is any inconsistency between the text of the Code and any such table, illustration, or example, the text controls unless otherwise provided in the specific section.

Sec. 1.4.4. Code Organization

- A. **Article 59-1.** Purpose, Applicability, and Use of the Code establishes the purpose of the Code; describes what properties and land use elements are controlled by the Code; and provides for how annexed properties are treated, how coordination with other regulations is governed, and how tables, illustrations, and examples are to be interpreted.
- B. **Article 59-2.** Zoning Districts establishes the various zoning districts used by the County to implement land use policy; the intent of each zoning district; and how zoning maps are completed and interpreted.
- C. **Article 59-3.** Uses and Use Standards provides an Allowed Use Table for all zoning districts; defines the use; and provides any use-specific standards that must be complied with in addition to the zoning district and general regulations.
- D. **Article 59-4.** Euclidean Zoning District Regulations establishes the types of development methods; defines how standards are measured and what exceptions are allowed; and establishes the development regulations and standards for all buildings, structures, and lands for each allowed building type in each Euclidean zoning district.
- E. **Article 59-5.** Floating Zoning District Regulations establishes the development regulations and standards for all buildings, structures, and lands for each allowed building type in each Floating Zoning District.
- F. **Article 59-6.** Optional Method Regulations establishes the development regulations and standards for all optional method development, including development with Moderately Priced Dwelling Units, Cluster Development, and development requiring public amenities and benefits in the Commercial/Residential, Employment, and Industrial zones.
- G. **Article 59-7.** General Development Regulations establishes the applicability, standards, and regulations for site access; parking, queuing, and loading; open space; recreation facilities; landscaping and lighting; signs; and outdoor storage and display.
- H. **Article 59-8.** Administration and Procedures establishes the necessary applications and review and approval authorities to administer this Code; the specific

rules and requirements required to submit and make a decision on the applications; how nonconforming sites, uses, and structures are treated; and how enforcement is provided.

- I. **Article 59-9.** Definitions establishes the definitions of words, phrases, and terms used for specific meanings in this Code.

Sec. 1.4.5. Step-By-Step Use of the Code

In order to most effectively use this Code, the following guide is provided. This guide is for ease of use by the reader and may not be interpreted to contain all the steps, information, or references necessary to make or assess an application or interpret or implement the Code.

A. Determine the Zone District

1. Obtain a copy of a property's zoning from the Montgomery County Planning Department. A scaled, certified zoning map obtained from the Planning Department will ensure the information is accurate and reliable. Take note of any Overlay zones that apply.
2. Take note of zoning for adjacent properties because this may affect land use classifications, development standards, and other regulations. In particular, if a property is in a Commercial/Residential, Employment, Industrial, or Floating zone and is adjacent to property in an Agricultural, Rural, or Residential zone, limits on use, increases in setbacks, height restrictions, and other limits may be imposed.
3. Refer to **Article 59-2** to find the intent of the zone because some approvals may require that an applicant show that the application meets the intent of the zone.

B. Identify Allowable Uses and Applicable Use Standards

1. Refer to the Allowed Use Table in **Article 59-3** to determine which uses are allowed in the zone and ensure that the proposed use meets the definition in the Article (Article 59-3).
2. If the use the applicant is interested in proposing is not allowed in the zone, they may wish to pursue a Floating Zone Map Amendment that allows the use. In this case, the regulations under **Article 59-5** will apply and the procedures of **Section 8.2.1** must be followed.

3. In the case where a use is identified as limited ("L") or conditional ("C") for the particular zone, use standards will be imposed and the application process will be indicated. All conditional uses must be approved by the Hearing Examiner or Board of Appeals, as indicated. Some limited uses will require a Site Plan based on the criteria set forth.

C. Review Building Type Allowed by Zone

1. There are several building types enumerated in the Code: Detached House, Duplex, Townhouse, Apartment/Condo, Mixed Use, and General Building. Refer to **Section 4.1.3** to determine which building types are allowed in the zone.
2. Only uses allowed in the zone may be approved for any given building type: the building type name does not imply any particular use as defined by this Chapter.
3. If the building type the applicant is interested in proposing is not allowed in the zone, they may wish to pursue a Floating Zone Map Amendment that allows the building type. In this case, the regulations under **Article 59-5** will apply and the procedures of **Section 8.2.1** must be followed.

D. Determine the Development Method

1. There are 2 types of development allowed by this Code: standard method and optional method. In most cases, standard method development allows a base density and has very prescriptive standards and regulations. Optional method typically allows more flexibility in building types, density, height, and standards and regulations but requires the provision of public amenities and benefits and entails additional public review.
2. Refer to the applicable division in **Article 59-4** for the zone's group to determine what thresholds exist for standard and optional method development.

E. Determine Applicable Zoning District Regulations

1. If standard method development is being pursued, the zoning district regulations, including lot size, lot width, setbacks, coverage, height, etc., are enumerated in **Article 59-4**.
2. If optional method development is being pursued, the zoning district regula-

tions and additional requirements, including public amenity and benefit requirements, are enumerated in [Article 59-6](#).

3. If a Floating zone is being pursued, the zoning district regulations are enumerated in [Article 59-5](#).

F. Identify General Development Regulations

1. All development must comply with the general development regulations established in [Article 59-7](#).
2. General development regulations include standards for site access; parking, queuing, and loading; open space; recreation facilities; landscaping and lighting; signage; and outdoor storage and display. Each Division of [Article 59-7](#) includes the intent and applicability of the provisions and should be reviewed to ensure compliance.
3. If any particular provision in [Article 59-7](#) cannot be complied with, or the applicant wishes to pursue an alternative, the mechanism for pursuing alternative compliance through public review is indicated.

G. Review Procedures for Approval

1. [Article 59-8](#) establishes when certain applications are required and who the reviewing and deciding bodies are.
2. First, check the overview tables that are provided for reference in [Div. 8.1](#); then review each approval section, which has a dedicated “Applicability” section that enumerates under what circumstances the approval is required.
3. When the applicable approval is found, the application requirements, submittal requirements, necessary findings, and other pertinent information is provided. Most importantly, the intake and review bodies are enumerated—these agencies should be your first point of contact to ensure you have correctly interpreted the steps required and can comply with the regulations for development of any building, structure, or land in the county.

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