



## Use of the Zoning Ordinance

### 1. Coordination with Other Chapters

- A. The use of structures and land within Montgomery County must satisfy all other applicable provisions as well as this Chapter, whether or not such other provisions are specifically referenced in the Chapter. Reference to other chapters or provisions of the Montgomery County 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 requirements.
- B. If a requirement adopted by this Chapter imposes a higher standard than those required under another statute or provision, the requirement adopted under this Chapter controls. If the other statute or provision imposes a higher standard, that statute or provision controls.

### 2. Chapter Organization

- A. Article 59-1., **General Zoning Ordinance Provisions**, establishes the following: the legal framework and purpose of this Chapter; municipalities that control their own zoning; how annexed properties are treated; how tables, illustrations, and examples are to be interpreted; and definitions for certain terms used in this Chapter.
- B. Article 59-2., **Zones and Zoning Map**, establishes the various zones used by the County to implement land use policy, and how zoning maps are recorded and interpreted.
- C. Article 59-3., **Uses and Use Standards**, provides a Use Table for all zones; defines each use; and specifies any use-specific standards required in addition to the zone standards and general development requirements.
- D. Article 59-4., **Development Standards for Euclidean Zones**, establishes the intent and development options and for each zone; defines how standards are measured and what exceptions are allowed; and establishes the development standards and requirements for standard and optional method development in each Euclidean zone. Optional method includes development with Moderately Priced Dwelling Units, Cluster Development, Transferable Development Rights (TDR), and development requiring public benefits in the Commercial/Residential and Employment zones. Overlay zones are also included in this chapter.
- E. Article 59-5., **Floating Zone Requirements**, establishes the development standards and requirements for each Floating zone.
- F. Article 59-6., **General Development Requirements**, establishes the applicability, standards, and requirements for site access; parking, queuing, and loading; open space; landscaping and outdoor lighting; outdoor storage and display; and signs.
- G. Article 59-7., **Administration and Procedures**, establishes the application requirements necessary to comply with this Chapter and the related submittal requirements; review and approval authorities for such applications; decision-making requirements; how prior approvals are treated; how nonconforming sites, designs, uses, and structures are treated; and how this Chapter is enforced.
- H. Article 59-8., **Zones Retained from Previous Ordinance**, establishes zones that were applied by Local Map Amendment before this Zoning Ordinance was adopted. These zones are on the zoning map, but may not be applied to any additional property through a Local or Sectional Map Amendment.



### 3. Ensure Proper Interpretation

- A. Refer to Division 1.4. for the rules of interpretation and defined terms.
- B. Zone categories are used in the text to refer to a group of zones without listing out the name of each specific zone. Zones are divided into the following zone categories:
  - 1. Agricultural zone: AR
  - 2. Rural Residential zones: R, RC and RNC
  - 3. Residential zones
    - a. Residential Detached zones: RE-2, RE-2C, RE-1, R-200, R-90, R-60, and R-40
    - b. Residential Townhouse zones: TLD, TMD, and THD
    - c. Residential Multi-Unit zones: R-30, R-20, and R-10
  - 4. Commercial/ Residential: CRN, CRT, and CR
  - 5. Employment: GR, NR, LSC, EOF
  - 6. Industrial: IL, IM, IH

### 4. Step-By-Step Use of the Chapter

This section describes in general terms, and for the benefit of the reader, how to use the Chapter. It is not exhaustive, and may not contain all of the steps, information, or references necessary to make or evaluate a development application or to implement this Chapter.

#### A. To Determine the Zone

- 1. Obtain a scaled, certified copy of a property's zoning map from the Montgomery County Planning Department to ensure that zoning information is accurate and reliable. Take note of any Overlay zones on the property.
- 2. For properties classified in the PD, T-S, PNZ, PRC, or PCC zones, skip the following steps and refer to Article 59-8, Zones Retained from Previous Ordinance.
- 3. Take note of the zone classification of the abutting and confronting properties because this may affect development standards and other requirements. In particular, if a property is in a Commercial/Residential, Employment, Industrial, or Floating zone and is abutting property in an Agricultural, Rural Residential, or Residential Detached zone, then limits on use, increases in setbacks, height restrictions, and other limits may apply.
- 4. Refer to Article 59-4 to find the intent of the zone because some approvals require an applicant to show that an application meets the intent of the zone.
- 5. Some CRT, CR, LSC, and EOF zones have a "T" after the zone formula on the map. The "T" indicates that the properties were rezoned as part of the zoning rewrite DMA with certain special provisions that may apply to these properties, including allowances for bonus MPDU density under Chapter 25A. The "T" provisions for the C/R zones are located in Section 4.5.2.C, and for Employment zones in Section 4.6.2.C.



## **B. To Identify the Allowed Uses and Applicable Use Standards**

1. Refer to the Use Table (Section 3.1.6) to determine which uses are allowed in the zone, then look at the referenced definition to ensure that the desired use meets the definition.
2. A use identified as limited ("L") in the use table must satisfy additional use standards, which may include a site plan review. A use identified as conditional ("C") in the use table must satisfy any applicable use standards and be approved by the Hearing Examiner under Section 7.3.1.
3. Overlay zones, which are found at the end of Article 59-4, may modify the uses allowed in the underlying zone.
4. If the desired use is prohibited in the current zone, consider a Floating zone that allows the use. In this case, the requirements for a Floating zone under Article 59-5, and the procedures for a Local Map Amendment under Section 7.2.1 will apply.

## **C. To Determine the Building Types Allowed by the Zone**

1. Section 4.1.4 identifies which building types are allowed in each Agricultural, Rural Residential, and Residential zone. Note that additional building types are allowed as part of optional method TDR, MPDU, and Cluster development.
2. Section 4.1.6 identifies which building types are allowed in each Commercial/Residential, Employment, and Industrial zone.
3. Only uses allowed in the zone may be approved for any given building type, which must also be allowed in the zone. The building type name does not imply any particular use as defined by this Chapter.
4. Division 4.2 through Division 4.8 show development standards for each building type allowed in a given zone. Development standards may vary between standard and optional method development.
5. If the desired building type is prohibited in the zone, the applicant may wish to apply for a Floating zone that allows the building type. In this case, the requirements for a Floating zone under Article 59-5 and the procedures for a Local Map Amendment under Section 7.2.1 will apply.

## **D. To Determine the Development Method**

1. There are 2 types of development allowed in this Chapter: standard method and optional method. In most cases, standard method development allows a base density and has set standards and requirements. Optional method requires additional public review, and typically allows more flexibility in building types, density, height, standards, and requirements. In some zones, optional method development requires the provision of public amenities and benefits.
2. The following zones only allow standard method development: AR, R, RE-2, CRN, GR, NR, IL, IM, and IH. All other zones allow both standard and optional method development. Site plan review may be required for certain standard method projects depending on the use, the intensity and height of the development, and the abutting or confronting property's zone. Refer to the table in Section 7.3.4.A.8 to determine if site plan review is required for a standard method project.
3. Optional Method development in Rural Residential and Residential zones:
  - a. Optional method development is not allowed in the R or RE-2 zones, but all other Rural Residential and Residential zones allow at least one type of optional method development.
  - b. Optional method development in these zones may include MDPDU, TDR, and Cluster development. The type of optional method development allowed varies by zone.
4. Optional method development in Commercial/ Residential and Employment zones:



- a. CRN, GR, and NR only allow standard method development. The CRT, CR, LSC, and EOF zones allow optional method.
  - b. Optional method projects in these zones require the provision of public benefits. The number of public benefit points required for a given development is located in Section 4.5.4.A.2 for CRT and CR and in Section 4.6.4.A.2 for LSC and EOF. Public benefit descriptions and criteria are located in Section 4.7.3. Public benefit points are only granted for amenities or project features not otherwise required by law, and the Planning Board has discretionary authority to grant the points.
  - c. Public benefit points are available for a development that provides more than 12.5% of residential units as MPDUs. Projects that provide more than 15% of residential units as MPDUs have to satisfy fewer benefit categories.
  - d. Most development standards are flexible under optional method development.
5. In the C/R and Employment zones, FAR averaging is allowed for optional method projects, and standard method projects that require site plan approval.

#### **E. To Determine the Development Standards of the Zone**

1. Article 59-4 contains the development standards for each zone, including lot size, lot width, setbacks, coverage, height, and public amenity and benefit requirements (where applicable), for all Euclidean zones.
2. For the Agricultural, Rural Residential, and Residential zones, the maximum height and density is specified in Article 59-4.
3. In all C/R, Employment, and Industrial zones, the maximum height and density allowed on any given property is designated on the zoning map. The C/R zones also have a maximum commercial and residential density designation on the zoning map.
4. The maximum thresholds for standard method development in the CRT, CR, LSC, and EOF zones are in Article 59-4. In these zones, if the maximum density designated on the zoning map is greater than the standard method threshold, then this density may only be achieved through optional method development.
5. Overlay zones, which are found at the end of Article 59-4, may modify the development standards of the underlying zone. The TDR Overlay zone (Section 4.9.13) allows an increase in residential density for the purchase of TDRs (transferable development rights).
6. The development standards for the Floating zones are contained in Article 59-5.

#### **F. To Determine Floating Zone Standards**

1. There are 4 categories of Floating zones: Residential, Commercial/Residential, Employment, and Industrial.
2. A property must meet the applicability requirements in Section 5.1.3, and satisfy the prerequisites where required, to submit an application for a Floating zone under Section 7.2.1. Local Map Amendment.
3. The maximum density and the uses allowed in each Floating zone are based on either a master plan recommendation or, absent a master plan recommendation, the existing Euclidean zone (the base zone) and the size of the site.



## **G. To Identify the General Development Requirements**

1. All development must comply with the general development requirements established in Article 59-6.
2. General development requirements include standards for site access; parking, queuing, and loading; open space; landscaping and lighting (includes screening); outdoor storage and display; and signage. Each Division or Section of Article 59-6 includes the intent or applicability of the provisions and should be reviewed to ensure compliance.
3. Note that parking requirements (Section 6.2.4) vary by zone. Parking requirements for Commercial/ Residential and Employment zones also varies by location. For sites within a Parking Lot District or Reduced Parking Area in Commercial/ Residential or Employment zones, there are both a minimum number of spaces required and a maximum number of spaces allowed. For sites outside a Parking Lot District and a Reduced Parking Area in Commercial/Residential and Employment zones, there is only a minimum number of spaces required.
4. The type of open space required under Division 6.3 varies by zone and development method. The development standards in Article 59-4 specify which type of open space is required.
5. If an applicant cannot comply with a provision in Article 59-6 (with the exception of Division 6.7. Signs), or wishes to pursue an alternative, the mechanism for pursuing alternative compliance is indicated in Section 6.8.1. An applicant who wishes to pursue an alternative to Division 6.7. Signs may apply for a sign variance under Section 7.4.4.

## **H. To Determine Review Procedures**

1. Article 59-7 identifies what types of approvals are required and who performs the review.
2. Division 7.1 provides an overview of review and approval authority and an overview of the approvals required.
3. For each type of approval, the application requirements, submittal requirements, necessary findings, and other pertinent information are provided. The intake and review bodies are also enumerated. These agencies should be the first point of contact to ensure correct interpretation of the steps required and compliance with the requirements for development of any structure or land in the County.

