

Zoning Text Amendment No: 06-14  
Concerning: TOMX/TDR Standards  
Draft No. & Date: 1 - 5/4/2006  
Introduced: 5/9/2006  
Public Hearing: 6/13/2006; 1:30 p.m.  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: District Council

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- establishing a new TOMX/TDR Zone; and
- creating development standards and procedures for the TOMX/TDR Zone.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

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

*EXPLANATION: **Boldface** indicates a heading or a defined term.  
Underlining indicates text that is added to existing laws  
by the original text amendment.  
[Single boldface brackets] indicate text that is deleted from  
existing law by the original text amendment.  
Double underlining indicates text that is added to the text  
amendment by amendment.  
[[Double boldface brackets]] indicate text that is deleted  
from the text amendment by amendment.  
\* \* \* indicates existing law unaffected by the text amendment.*

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-C-13 is amended as follows:**

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3           **DIVISION 59-C-13.     TRANSIT ORIENTED, MIXED-USE ZONES**  
4           **(TOMX).**

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6           **59-C-13.11 Zones permitted.**

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

9           \* \* \*

10          TOMX-2.0/TDR

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12          **59-C-13.24 TOMX/Transferable development rights zones.**

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14           **59-C-13.241. Method of development.** The following 2 methods of  
15           development apply in any TOMX/TDR zone:

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17           (a)   **Standard method of development.** Development under the  
18                   standard method for any TOMX/TDR zone must comply with  
19                   the requirements and procedures for development and density  
20                   limitations contained in the corresponding TOMX zone, except  
21                   that greater residential densities may be permitted pursuant to  
22                   Section 59-C-13.242. Development must also conform to the  
23                   special regulations for developments in a TOMX zone using  
24                   transferable development rights contained in Section 59-C-  
25                   13.243.

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27           **(b) Optional method of development.** Development under the  
 28           optional method for any TOMX/TDR zone must comply with  
 29           the requirements and procedures for development and density  
 30           limitations contained in the corresponding TOMX zone and  
 31           must be conform to guidelines established in the applicable  
 32           master or sector plan, however greater residential densities may  
 33           be permitted pursuant to Section 59-C-13.242. Development  
 34           must also conform to the special regulations for developments  
 35           using transferable development rights contained in Section 59-  
 36           C-13.243. The special regulations require compliance with the  
 37           density and any numerical limitations in the applicable master  
 38           or sector plan, and consistency with other guidelines contained  
 39           in the applicable master or sector plan approved by the district  
 40           council.

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-	<b><u>TOMX-2.0/TDR</u></b>
<b><u>59-C-13.242. Development Standards-Transferable Development Rights Zone(s):</u></b>	-
<b><u>(a) Land uses.</u></b> <u>Uses allowed in the TOMX/TDR zones are those uses allowed in the following zone(s):</u>	<u>TOMX-2.0</u>
<b><u>(b) Development standards-Standard method:</u></b>	
<u>-Maximum density of development (FAR) without TDRs</u> <u>The Residential FAR may be increased by a maximum of 20% by the use of TDRs.</u>	<u>0.5</u>
<u>-Maximum dwelling units per acre without TDRs</u> <u>Dwelling units per acre may be increased by a maximum of 20% by the use of TDRs</u>	<u>20</u>
<u>-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 59-C-13.243:</u>	<u>TOMX-2.0</u>

<b><u>(c) Development standards-Optional method of development:</u></b>	
<u>-Maximum density of development (FAR) without TDRs: The Residential FAR may be increased by a maximum of 20% by the use of TDRs.</u>	<u>1.6</u>
<u>-Maximum dwelling units per acre without TDRs Dwelling Units per acre may be increased by a maximum of 20% by the use of TDRs</u>	<u>50</u>
<u>-All other development standards must comply with the development standards of the applicable zone and as specified in the special regulation provisions of Section 59-C-13.243:</u>	<u>TOMX- 2.0</u>

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**59-C-13.243. Special regulations for development using transferable development rights in the TOMX/TDR zone.**

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**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 and conforming to the guidelines contained in 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% 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 detached units for each TDR applies.

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**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 MPDU's.

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

- 89                    (a) A request to use transferred development rights under the  
90                    standard or optional method must be in the form of a  
91                    preliminary subdivision plan in accordance Chapter 50.  
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- 93                    (b) A site plan must be submitted and approved in  
94                    accordance with the provisions of Division 59-D-3.  
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- 96                    (c) The Planning Board must approve a request to use  
97                    transferred development rights if the request:  
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- 99                    (1) is in accordance with provisions of this chapter;  
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- 101                    (2) is in accordance with Chapter 50, title  
102                    "Subdivision of Land";  
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- 104                    (3) is consistent with other recommendations of the  
105                    applicable master or sector plan ; and  
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- 107                    (4) achieves a desirable development compatible with  
108                    both site conditions and surrounding existing and  
109                    future development.  
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- 111                    (d) Prior to Planning Board approval of a final record plat for  
112                    a subdivision using transferred development rights, an  
113                    easement to the County in the form required by Section  
114                    59-C-2432 (a) above limiting future construction of  
115                    dwelling on a property in the RDT zone by the number

116 of development rights received must be recorded among  
117 the land records of Montgomery County, Maryland.

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

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126 **59-C-13.2434. Development standards applicable to the**  
127 **standard and optional method of development.**

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

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

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138 (1) provides housing types consistent with the  
139 approved master or sector plan ;

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- 141                    (2) preserves environmentally sensitive and priority  
142                    forest areas, and mitigates unavoidable impacts on  
143                    the natural environment;  
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145                    (3) facilitates good transit serviceability and creates a  
146                    desirable and safe pedestrian environment;  
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148                    (4) achieves compatibility with surrounding land uses;  
149                    and  
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151                    (5) conforms to the relevant master or sector plan  
152                    approved by the District Council  
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154                    **Sec. 2. Effective date.** This ordinance becomes effective 20 days  
155 after the date of Council adoption.  
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157 This is a correct copy of Council action.  
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162 Linda M. Lauer  
163 Clerk of the Council  
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