

Zoning Text Amendment No: 11-04
Concerning: Central Business District
(CBD) Zones – Public
Facilities

Draft No. & Date: 1 - 5/4/11

Introduced: May 10, 2011

Public Hearing:

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**

By: Council President at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the definitions of “Public facilities and amenities” and “Public use space”;
- amend the development standards for an optional method project to allow the provision of a building or land for a publicly owned and operated government facility to meet the public facility and amenity requirements;
- amend the development standards for an optional method project to allow the publicly owned and operated government facility to satisfy the public use space requirement for the optional method project and exclude the floor area in the calculation of gross floor area; and
- generally amend the development standards for optional method projects in the CBD zones.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1 “Definitions”
DIVISION 59-C-6 “CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.233 “Minimum Public Use Space”
Section 59-C-6.234 “Maximum Density of Development”

And by adding the following section to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Section 59-C-6.2357 “Special standards for optional method development projects that include a building or land for a publicly owned or operated government facility”

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

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3 **Sec. 1. DIVISION 59-A-2 is amended as follows:**
4 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

5 **59-A-2.1. Definitions**

6 * * *

7 **Public facilities and amenities:** Those facilities and amenities of a type and scale
8 necessary to provide an appropriate environment to satisfy public needs resulting
9 from, or related to, the development of a particular project or to support
10 government programs or services. Facilities and amenities may include, but are
11 not limited to:

- 12 (a) green area or open space which exceeds the minimum required, with
13 appropriate landscaping and pedestrian circulation;
14 (b) streetscaping that includes elements such as plantings, special pavers, bus
15 shelters, benches, and decorative lighting;
16 (c) public space designed for performances, events, vending, or recreation;

- 17 (d) new or improved pedestrian walkways, tunnels, or bridges;
- 18 (e) features that improve pedestrian access to transit stations;
- 19 (f) dedicated spaces open to the public such as museums, art galleries, cultural
- 20 arts centers, community rooms, recreation areas;
- 21 (g) day care for children or senior adults and persons with disabilities; [and]
- 22 (h) public art[.]; and
- 23 (i) a publicly owned or operated government facility.

24 Public facilities and amenities may be recommended or identified in an approved
25 and adopted master or sector plan. Public amenities do not include road
26 improvements or other capital projects that are required to provide adequate
27 facilities to serve the property.

28 **Public use space:** Space devoted to public enjoyment, such as, but not limited to,
29 green areas, gardens, plazas, walks, pathways, promenades, arcades, urban parks,
30 town squares, public plazas with elements such as water features, and passive and
31 active recreational areas including outdoor recreation areas for a child day care
32 facility. Public use space may include land or building space for a publicly owned
33 or operated government facility. Public use space may also consist of space and/or
34 amenities recommended by an approved urban renewal plan. Public use space
35 must not include parking or maneuvering areas for vehicles. Except for an outdoor
36 recreation area for a child day care facility or a publicly owned or operated
37 government facility, public use space must be easily and readily accessible to the
38 public and be identified by a sign placed in public view. If public pedestrian
39 walkways are recommended in an approved and adopted master plan or sector
40 plan, it may be counted as public use space.

41 * * *

42 **Sec. 2. DIVISION 59-C-6 is amended as follows:**

43 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

44 * * *

45 **59-C-6.23. Development Standards.**

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	* * *	CBD-1		CBD-2		CBD-3		* * *
		S	O	S	O	S	O	
59-C-6.233. Minimum Public Use Space (percent of net lot area):		10	20 ^{20, 22,*}	10	20 ^{22,*}	10	20 ^{22,*}	
* * *								
59-C-6.234. Maximum Density of [Development] Development.								
* * *								
(b) [Option] <u>Optional</u> Method of development (see section 59-C-6.215(b)):								
* * *								
(ii)(A) Non-residential, including transient lodging[.]; however, the maximum excludes a site that satisfies subsection (ii)(B) (FAR):			2.0 ^{19, 23,**}		4.0 ^{23,**}		6.0 ^{23,**}	
* * *								
(iii) Mixed-use (non-residential and residential uses).								
(A) Maximum permitted non-residential, including transient lodging; however, the maximum excludes a site that satisfies subsection (iii)(B)[:] (FAR) limited to:			2.0 ^{4, 23,**}		3.0 ^{5, 23,**}		5.0 ^{6, 23,**}	
* * *								
-- Total FAR ^{13, 15}			3.0 ^{23,**}		5.0 ^{23,**}		8.0 ^{23,**}	

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²² The entire optional method public use space requirement is satisfied if the applicant has provided to the County, by conveyance or dedication, land or building space to accommodate an arts or entertainment use under Section 59-C-6.2356.

²³ The gross floor area of the arts or entertainment use that satisfies the public use space and the public facility and amenity requirements for the optional method of development under Section 59-C-6.2356 must not be counted in the gross floor area of the optional method project.

* The entire optional method public use space requirement is satisfied if the applicant conveys, to the County or other governmental body, land or building space within the same central business district for a publicly owned or operated government facility under Section 59-C-6.2357.

** The gross floor area of the publicly owned or operated government facility that is provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section 59-C-6.2357 must not be counted in the gross floor area of the optional method project.

* * *

48 **59-C-6.2357 Special standards for optional method of development projects**
49 **that include a building or land for a publicly owned or operated government**
50 **facility.**

- 51 (a) The public facility and amenity requirement is satisfied when:
- 52 1) the Planning Board finds that the project plan application warrants
53 approval with a publicly owned or operated facility satisfying the
54 amenity and the public use space requirements; and
- 55 2) the applicant conveys in fee simple, to the County or other
56 government body, the identified land or building space, and the
57 County accepts the land or building space for a publicly owned or
58 operated government facility within the same central business district.
- 59 (b) Once the County or other government body has accepted the fee simple
60 conveyance of the land or building space for the publicly owned or operated
61 government facility:

- 62 (1) the public facility and amenity requirement also is satisfied for any
63 amendment to the original optional method of development project
64 plan that does not increase the floor area of the project;
65 (2) the land area that is conveyed to the County for the publicly owned or
66 operated government facility also is treated as public use space for
67 any amendment to the original project plan that does not increase
68 floor area; and
69 (3) any transfer or lease of the building, or land, or any portion thereof, by
70 the County will not affect the approval of the optional method of
71 development project plan or the site plan.
72 (c) Standard streetscaping improvements along the frontage of the phase of the
73 project that is intended to accommodate the publicly owned or operated
74 government facility use must be provided during the phase of the project that
75 contains the facility.

76 * * *

77 **Sec. 3. Effective date.** This ordinance takes effect immediately upon
78 Council adoption.

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80 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council