

Ordinance No.: 20-19
Zoning Text Amendment No.: 25-04
Concerning: Overlay Zones –
Bethesda (B) Overlay
Zone
Revised: 6/18/2025 Draft No.: 2
Introduced: February 25, 2025
Public Hearing: April 1, 2025
Adopted: June 24, 2025
Effective: July 14, 2025

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

Lead Sponsor: Council President at the Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) implement recommendations of the Bethesda Downtown Plan Minor Master Plan Update, including incentives for additional MPDUs, a new recreation center, and lifting the development cap; and
- (2) generally amend the Bethesda (B) Overlay Zone.

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

Division 4.9.	“Overlay Zones”
Section 4.9.2.	“Bethesda (B) Overlay Zone”

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 text that 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:

Sec. 1. DIVISION 59-4.9 is amended as follows:

Division 4.9. Overlay Zones

* * *

Section 4.9.2. Bethesda (B) Overlay Zone

A. Purpose

The purpose of the B Overlay Zone is to implement the recommendations of the Bethesda Downtown Plan, as amended, as it relates to density, building heights, affordable housing, parks, and design.

B. Land Uses

The land uses of the underlying zones apply.

Surface Parking for Use Allowed in the Zone is not allowed as a principal use on a site from which density has been transferred.

C. Development Standards

1. Building Height

a. Except as provided in [Subsection 3 concerning MPDUs] Section 4.9.2.C.3, the maximum building height is limited to the height allowed in the underlying zone.

b. With Planning Board approval, any optional method development in a CR zone that includes the provision of a new recreation center may add the height of any floor mostly used for the facility, including above-grade parking, up to a maximum of 24 additional feet, to the maximum height otherwise allowed.

2. Density

a. In the CR or CRT zone, a development may exceed the mapped FAR on a site if the Planning Board approves a sketch or site plan under Section 7.3.3 or Section 7.3.4 that includes the

allocation of gross floor area from Bethesda Overlay Zone (BOZ) Density, or FAR Averaging under Section 4.9.2.C.5.

- b. BOZ Density means the total square footage of gross floor area by which new development in the Bethesda Downtown Plan Area may cumulatively exceed the maximum square footage of gross floor area allowed under the mapped CR and CRT zones. [BOZ Density is determined by subtracting the gross floor area of existing and approved development from 32.4 million (the total gross floor area recommended by the Bethesda Downtown Plan). The Planning Board must periodically publish the gross floor area remaining in BOZ Density.]

i. Land Use

The gross floor area allocated from BOZ Density may be developed as Commercial or Residential square footage.

ii. Qualification

To qualify for BOZ Density, a proposed development must:

[A.](a) use all gross floor area allowed by the mapped “C” or “R” components of CR or CRT FAR and may not transfer BOZ Density to any other property; and

[B.](b) except as provided under [Subsection 3 concerning MPDUs] Section 4.9.2.C.3, make a Park Impact Payment. Half of the payment must be made before the issuance of any building permit and half ~~[[at]]~~ no later than issuance of the first use and occupancy permit, [application] at a rate of [\$10] \$15.57 per square foot of approved BOZ Density gross floor area. The Planning Board, after advertising and

holding a public hearing, must adjust this payment rate on July 1 of each odd-numbered year by the cumulative increase or decrease in a published construction cost index over the prior two calendar years. The Planning Board must cap the biennial Park Impact Payment rate adjustment not to exceed 20%. If the biennial tax rate adjustment exceeds 20%, the excess dollar amount must be carried over and added to the Park Impact Payment rate before calculating the next adjustment. If this total adjustment, including any carried over value, again exceeds 20%, the excess dollar amount must be carried over and added to the rate before calculating the next biennial adjustment. [[If a property owner dedicates or makes publicly accessible land designated in the master plan as a recommended open space to the M-NCPPC Parks Department, or land or space for a new recreation center, the Planning Board may reduce the amount of square footage for which a Park Impact Payment must be made.]]

(c) The Planning Board may reduce the amount of square footage for which a Park Impact Payment must be made if a property owner:

(1) dedicates land designated in the master plan as a recommended open space to the M-NCPPC Parks Department;

(2) creates a Privately Owned Public Space (POPS) subject to covenants that ensure public access and enjoyment on land designated in the master plan as a recommended open space. The POPS must be designed, constructed, and maintained to meet or exceed Parks Department standards where:

(A) the reduction for a POPS that does not expand existing or future Parks Department managed parkland may not exceed 75% of the reduction for a dedication of the same square footage; and

(B) the reduction for a POPS that expands Parks Department managed parkland may not exceed 85% of the reduction for a dedication of the same square footage; or

(3) provides land or space for a new recreation center as recommended in the master plan.

3. Moderately Priced Dwelling Units (MPDUs)

a. General Requirement

For any development application that includes 20 or more residential dwelling units, the Planning Board may only approve the application if the development provides at least 15% MPDUs under the provisions of Chapter 25A. The provisions of Section 4.9.2.C.3.b through Section

4.9.2.C.3.d apply to any development application that is required to provide a minimum 15% MPDUs and includes family-sized MPDUs that exceed the minimum number required under Chapter 25A or deeply affordable MPDUs as defined by the Department of Housing and Community Affairs.

b. Building Height

If a project exceeds 17.5% MPDUs and is located in the Height Incentive Area [as delineated in Subsection E] under Section 4.9.2.E, the height limit of the applicable zone does not apply to the extent required to provide MPDUs. The additional height is calculated as the floor area provided for MPDUs above 15% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet. [[In the portion of the Height Incentive Area bound by Arlington Road, Woodmont Avenue, Moorland Avenue, and Montgomery Avenue, this additional height is limited to a maximum of 24 feet.]]

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4. Public Benefit Points

The requirements for public benefit points are established by Division [59.4.7] 4.7, except as provided in [Subsection 3 Section 4.9.2.C.3 concerning MPDUs] Section 4.9.2.C.3 and as follows:

* * *

c. Within the High-Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development [achieves 15 public benefit points from Energy Conservation and Generation under Section 59.4.7.3.F.3] exceeds the applicable building or energy code standards.

* * *

- g. In addition to the other adjustment for maximum public benefit points made in this [subsection] Section 4.9.2.C.4., the number of maximum allowed public benefit points in the following categories are increased to the number of points indicated:

* * *

- h. For the Public Art Public Benefit under Section 4.7.3.E.5, the fee may also be accepted by the Bethesda Urban Partnership, the Bethesda Arts & Entertainment District, or other civic arts organization accepted by the Planning Board.

* * *

7. Public Open Space

- a. The Public Open Space requirement under Section 4.5.4.B.1.a may be reduced by the Planning Board, including providing for land or built area for a new recreation center.

* * *

D. Development Procedures

1. Except as modified in this [subsection] Section 4.9.2.D., the development procedures of the underlying zone apply.
2. Sketch plan and site plan approval under Section 7.3.3 and Section 7.3.4, respectively, are required for all development in the Bethesda Overlay zone that uses the FAR Averaging provisions of Section 4.9.2.C.5.
3. The Planning Director may approve a request for an amendment to remove a condition that resulted in a site plan being revoked due to failure to file an accepted building permit or obtain a building permit within two years, if the preliminary plan is valid. The applicant must

demonstrate that the building permit was not timely obtained due to practical difficulty or undue hardship.

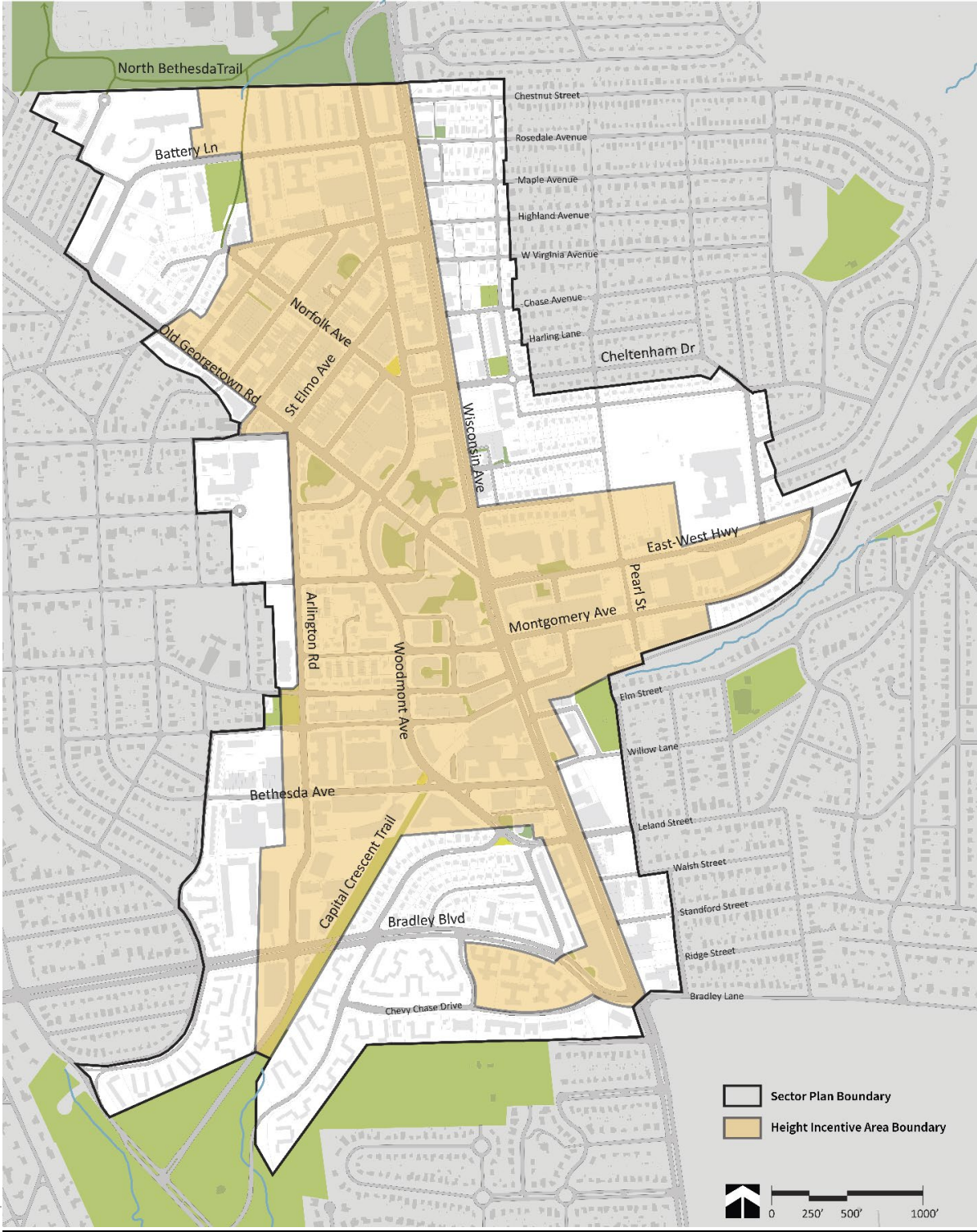
[To approve a site plan, the Planning Board must find that the proposed allocation of gross floor area, in addition to the sum of previously approved or built developments, does not exceed 32,400,000 square feet of gross floor area.]

- [4. If the Planning Board approves a site plan using BOZ Density, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit. If an applicant fails to comply with any of the deadlines under this section, the entire site plan approval is revoked. For any site plan using BOZ density that was valid on July 17, 2023, the deadline to have an application for a building permit that includes the core and shell of the principal building accepted by the Department of Building Services is automatically extended for one year. The deadlines under this section may not otherwise be extended.]

E. Height Incentive Area Map







F. Site Plan Validity

A site plan using BOZ Density that was approved and valid on July 14, 2025, that as part of a condition of approval includes a deadline for applying for or receiving a

189 building permit, must have that deadline struck and the site plan instead remain valid
190 in accordance with Section 7.3.4.H.

191 * * *

192 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
193 date of District Council adoption.

This is a correct copy of Council action.

A handwritten signature in black ink, appearing to read 'Sara', is positioned above a horizontal line.

Sara R. Tenenbaum
Clerk of the Council