

Zoning Text Amendment No.: 21-04
Concerning: Overlay Zone –
Germantown-Churchill
Village
Draft No. & Date: 1 – 7/13/2021
Introduced: July 20, 2021
Public Hearing:
Adopted:
Effective:

**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:

- establish the Germantown-Churchill Village Overlay zone

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

ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Section 4.9.10.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.11.	“Montgomery Village (MV) Overlay Zone”
Section 4.9.12.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.13.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.14.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.15.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”
Section 4.9.16.	“Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
Section 4.9.17.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.18.	“Twinbrook (TB) Overlay Zone”
Section 4.9.19.	“Upper Paint Branch (UPB) Overlay Zone”
Section 4.9.20.	“Upper Rock Creek (URC) Overlay Zone”
Section 4.9.21.	“White Flint 2-Parklawn (WF-P) Overlay Zone”

And adding

Section 4.9.10.	“ <u>Germantown-Churchill Village (GCV) Overlay Zone</u> ”
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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.*

OPINION

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. ARTICLE 59-2 is amended as follows:**

2 **DIVISION 2.1. Zones Established**

3 * * *

4 **Section 2.1.3. Establishment of Zones**

5 * * *

6 **G. Overlay Zones**

7 1. There are [20] 21 Overlay zone classifications:

- 8 a. Bethesda (B),
- 9 b. Burtonsville Employment Area (BEA),
- 10 c. Chevy Chase Neighborhood Retail (CCNR),
- 11 d. Clarksburg East Environmental (CEE),
- 12 e. Clarksburg West Environmental (CWE),
- 13 f. Community-serving Retail (CSR),
- 14 g. Fenton Village (FV),
- 15 h. Garrett Park (GP),
- 16 i. Germantown-Churchill Village (GCV)
- 17 [i]j. Germantown Transit Mixed Use (GTMU),
- 18 [j]k. Montgomery Village (MV),
- 19 [k]l. Regional Shopping Center (RSC),
- 20 [l]m. Ripley/South Silver Spring (RSS),
- 21 [m]n. Rural Village Center (RVC),
- 22 [n]o. Sandy Spring/Ashton Rural Village (SSA),
- 23 [o]p. Takoma Park/East Silver Spring Commercial Revitalization
- 24 (TPESS),
- 25 [p]q. Transferable Development Rights (TDR),
- 26 [q]r. Twinbrook (TB),
- 27 [r]s. Upper Paint Branch (UPB),

- 28 [s]t. Upper Rock Creek (URC), and
- 29 [t]u. White Flint 2-Parklawn (WF-P).
- 30 2. Building types, uses, density, height, and other standards and
- 31 requirements may be modified by the Overlay zones under Section
- 32 4.9.2 through Section [4.9.20] 4.9.21.

33 * * *

34 **Sec. 2. ARTICLE 59-4 is amended as follows:**

35 **DIVISION 4.9. Overlay Zones**

36 * * *

37 **Section 4.9.10. Germantown-Churchill Village (GCV) Overlay Zone**

38 **A. Purpose**

39 The purpose of the GCV Overlay zone is to:

- 40 1. preserve the unique character of Churchill Village;
- 41 2. protect existing open space and conservation areas; and
- 42 3. ensure a compatible relationship between new and existing
- 43 development.

44 **B. Land Uses**

- 45 1. On properties in the RE-1 zone, all uses are prohibited except the
- 46 following, which are permitted:
 - 47 a. Agricultural Vending;
 - 48 b. Recreation and Entertainment Facility, Outdoor (Capacity up to
 - 49 1,000 Persons);
 - 50 c. Recreation and Entertainment Facility, Indoor (Capacity up to
 - 51 1,000 persons);
 - 52 d. Distribution Line (Below Ground);
 - 53 e. Pipeline (Below Ground);
 - 54 f. Playground, Outdoor (Private);

- 55 g. Seasonal Outdoor Sales;
- 56 h. Solar Collection System;
- 57 i. Day Care and Health Clubs in Community Centers; and
- 58 j. An Accessory Use associated with any of the above uses.
- 59 2. On properties in the RE-1 zone, any of the allowed features in open
- 60 space under Section 6.3.3.A are permitted, except for above-ground
- 61 utility rights-of-way.

62 **C. Development Standards**

63 In addition to any other requirements of Division 6.3 and Chapter 50,

64 common and public open space in Churchill Village must be recorded within

65 a separate lot or parcel with a protective easement or covenant in the land

66 records, in a form approved by the Planning Board, unless the parcel is

67 exempted from recordation under Chapter 50.

68 **D. Development Procedures**

- 69 1. Site plan approval under Section 7.3.4 is required for all development
- 70 in the GCV Overlay zone, except for:
- 71 a. construction of an accessory structure;
- 72 b. construction of a structure less than 5,000 square feet in size in
- 73 the RE-1 zone;
- 74 c. the modification or expansion of an existing detached house,
- 75 duplex, townhouse, or accessory structure; or
- 76 d. a conditional use.
- 77 2. Record plats must show all land designated for open space and have a
- 78 statement on the plat granting public access to those lands.
- 79 3. A certified site plan must show all land designated for open space.
- 80 4. Applications for a Floating zone on land classified in the RE-1 zone
- 81 are prohibited.

82 **E. Existing Buildings and Uses**

83 1. A legal structure or site design existing on {DAY BEFORE
84 EFFECTIVE DATE} that does not meet its current zoning is
85 conforming and may be continued, renovated, repaired, or
86 reconstructed if the floor area, height, and footprint of the structure
87 are not increased, except as provided below.

88 2. On a lot that has not changed in size or shape since {INSERT THE
89 EFFECTIVE DATE}, a detached house, duplex, or townhouse may
90 be constructed, reconstructed, or expanded:

- 91 a. without regard to the minimum lot size or lot width at the front
- 92 building line; and
- 93 b. in a manner that satisfies the maximum building height and lot
- 94 coverage of its current zone and the side, front, and rear setback
- 95 that was required when the lot was first created.

96 3. a. A legal use existing on {DAY BEFORE EFFECTIVE DATE}
97 is conforming and may be continued. Expansion of any such
98 use must satisfy the standards of the current zone under Article
99 59-3.

100 b. An existing Charitable, Philanthropic Institution (as defined by
101 Section 3.4.2) may expand without conditional use approval but
102 must satisfy Section 4.9.10.D.

103 **Section [4.9.10] 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay**

104 **Zone**

105 * * *

106 **Section [4.9.11] 4.9.12. Montgomery Village (MV) Overlay Zone**

107 * * *

108 **E. Existing Buildings and Uses**

109 * * *

- 110 3. a. A legal use existing on February 28, 2016 is conforming and
111 may be continued. Expansion of any such use must satisfy the
112 standards of the current zone under Article 59-3.
- 113 b. An existing Charitable, Philanthropic Institution (as defined by
114 Section 3.4.2) may expand without conditional use approval,
115 but must satisfy Section [4.9.11.D] 4.9.12.D.
- 116 c. An existing Storage Facility (as defined by Section 3.6.8.e.1)
117 owned and operated by a Charitable, Philanthropic Institution
118 may expand by up to the lesser of 10% or 30,000 square feet
119 without conditional use approval, but must satisfy Section
120 [4.9.11.D] 4.9.12.D.

121 **Section [4.9.12] 4.9.13. Regional Shopping Center (RSC) Overlay Zone**

122 * * *

123 **D. Site Plan**

124 Site plan approval under Section 7.3.4 is required for any increase in
125 building height under Section [4.9.12.C.1] 4.9.13.C.1.

126 **E. Parking**

127 * * *

128 **2. Pedestrian Access**

129 The major point of pedestrian access for an off-street parking facility
130 that occupies contiguous land area integral to the regional shopping
131 center property may extend more than 500 feet walking distance from
132 an entrance to the center to satisfy the number of spaces required
133 under Section [4.9.12.E.1.a] 4.9.13.E.1.a.

134 **Section [4.9.13] 4.9.14. Ripley/South Silver Spring (RSS) Overlay Zone**

135 * * *

136 **Section [4.9.14] 4.9.15. Rural Village Center (RVC) Overlay Zone**

137 * * *

138 **C. Development Standards**

139 1. Where a lot is either partially or totally in a Commercial/Residential
140 zone:

141 * * *

142 e. In addition to the parking requirements in Division 6.2:

143 * * *

144 iii. For any cumulative enlargement of a surface parking
145 facility that is greater than 50% of the total parking area
146 approved before November 4, 2002, the entire off-street
147 parking facility must be brought into conformance with
148 Section [4.9.14] 4.9.15.

149 * * *

150 **Section [4.9.15] 4.9.16. Sandy Spring/Ashton Rural Village (SSA) Overlay
151 Zone**

152 * * *

153 **Section [4.9.16] 4.9.17. Takoma Park/East Silver Spring Commercial
154 Revitalization (TPESS) Overlay Zone**

155 * * *

156 **D. Site Plan**

157 * * *

158 3. For any addition, reconstruction, or alteration that changes a building
159 by less than 1,000 square feet and does not require site plan approval
160 under Section [4.9.16.D.1.c] 4.9.17.D.1.c, the Planning Board or its
161 designee must review the building permit to determine compliance
162 with master plan recommendations and the provisions of this Overlay

163 zone. If an existing building is located on the site or on an adjacent
164 property, the minimum setback of the zone may be reduced to
165 conform to the existing setback on the site or on the adjacent property.

166 * * *
167 **Section [4.9.17] 4.9.18. Transferable Development Rights (TDR) Overlay Zone**

168 * * *
169 **B. Optional Method**

170 **1. In General**

171 The TDR Overlay optional method of development permits an
172 increase in the maximum residential density[,] if the development
173 satisfies the requirements for optional method development using
174 Transferable Development Rights under Section [4.9.17.B] 4.9.18.B.

175 **a. Applicability**

176 The procedures and requirements in Section [4.9.17.B] 4.9.18.B
177 apply to the transfer of development rights from land in the AR
178 zone to land in a Transferable Development Rights (TDR)
179 Overlay zone. The Planning Board may approve subdivision of
180 such land at densities up to the maximum density allowed in the
181 applicable TDR Overlay zone and substantially conforming to
182 the recommendations in the applicable master plan.

183 * * *
184 **c. Recording of Development Right**

185 * * *
186 ii. A final record plat for a subdivision using transferred
187 development rights must contain a statement including
188 the development proposed, the zoning classification of
189 the property, the number of development rights used, and

190 a notation of the recordation of the conveyance as
191 required by Section [4.9.17.B] 4.9.18.B.

192 **d. Development with Moderately Priced Dwelling Units**

- 193 i. A property developed under Section [4.9.17.B] 4.9.18.B
194 must satisfy Chapter 25A.
- 195 ii. Any increase in density allowed under the optional
196 method of development for the provision of MPDUs is
197 calculated after the base density of the property has been
198 increased under Section [4.9.17.B] 4.9.18.B through
199 TDRs.
- 200 iii. In a Rural Residential or Residential zone with a TDR
201 density designation of less than three units per acre,
202 development using TDRs and providing MPDUs above
203 12.5% must follow the requirements under optional
204 method MPDU Development. Any other optional method
205 development in a Rural Residential or Residential zone
206 must satisfy the requirements of Section [4.9.17.B]
207 4.9.18.B.

208 **e. Additional Findings**

209 In addition to the findings required for approval of a site plan
210 under Section 7.3.4, for projects developed under Section
211 [4.9.17.B] 4.9.18.B, the Planning Board must find that the
212 proposed development provides an appropriate range of
213 housing types that takes advantage of existing topography and
214 environmental features and achieves a compatible relationship
215 between the proposed development and adjoining land uses.

216 * * *

217 **Section [4.9.18] 4.9.19. Twinbrook (TB) Overlay Zone**

218 * * *

219 **Section [4.9.19] 4.9.20. Upper Paint Branch (UPB) Overlay Zone**

220 * * *

221 **B. Exemptions**

222 The following are exempt from Section [4.9.19] 4.9.20:

223 * * *

224 **C. Land Uses**

225 1. Except as listed in Section [4.9.19.C.2] 4.9.20.C.2 and Section
226 [4.9.19.C.3] 4.9.20.C.3, the land uses of the underlying zone apply.

227 The use standards of the underlying zone apply unless the
228 development standards in Section [4.9.19.D] 4.9.20.D are more
229 restrictive, in which case Section [4.9.19.D] 4.9.20.D must be
230 followed.

231 * * *

232 3. If validly existing on July 1, 1997, the uses in Section [4.9.19.C.2]
233 4.9.20.C.2 may be continued under the requirements in effect at the
234 time the use was established. Any expansion requires compliance with
235 the UPB Overlay zone.

236 * * *

237 **E. Waiver**

238 The applicable review body may grant a waiver of the development
239 standards in Section [4.9.19.D] 4.9.20.D if it finds that:

240 * * *

241 4. Alternative water quality and control techniques are used to meet the
242 purposes of Section [4.9.19] 4.9.20.

243 **Section [4.9.20] 4.9.21. Upper Rock Creek (URC) Overlay Zone**

244 * * *

245 **B. Exemptions**

246 1. The following are exempt from Section [4.9.20] 4.9.21:

247 * * *

248 **D. Waiver**

249 The applicable review body may grant a waiver of the development
250 standards in Section [4.9.20.C] 4.9.21.C if it finds that:

251 * * *

252 4. Alternative water quality and quantity control techniques are used to
253 meet the purposes of Section [4.9.20] 4.9.21.

254 **Section [4.9.21] 4.9.22. White Flint 2-Parklawn (WF-P) Overlay Zone**

255 * * *

256
257

Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING ORDINANCE SECTION CROSS REFERENCE is amended as follows:

Old ZONING ORDINANCE	New ZONING ORDINANCE
Article 59-C: Zoning Districts; Regulations.	
* * *	
Division 59-C-18. Overlay Zones.	
* * *	
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.19] <u>4.9.20</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.15] <u>4.9.16</u> . Sandy Spring/Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.16] <u>4.9.17</u> . Takoma Park/East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
* * *	
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.20] <u>4.9.21</u> . Upper Rock Creek (URC) Overlay Zone

258

259 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
260 date of Council adoption.

261

262 This is a correct copy of Council action.

263

264

265 Selena Mendy Singleton, Esq.
266 Clerk of the Council