

Ordinance No: 16-08
Zoning Text Amendment No: 07-07
Concerning: Rural Density Transfer – Use
Limitations
Draft No. & Date: 3 – 9/28/07
Introduced: June 12, 2007
Public Hearing: July 19, 2007; 7:30 PM
Adopted: October 2, 2007
Effective: October 22, 2007

**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 Ad Hoc Agricultural Policy Working Group

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

- to limit the uses allowed in the Rural Density Transfer Zone when a property is under a transfer of development rights easement; and
- generally amend uses allowed in the Rural Density Transfer Zone.

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

DIVISION 59-C-9 “AGRICULTURAL ZONES”
Section 59-C-9.3 “Land uses”

*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.*

OPINION

Zoning Text Amendment No. 07-07 was introduced on June 12, 2007 to limit the land uses allowed in the Rural Density Transfer (RDT) zone when a property is encumbered by a transfer of development rights (TDR) easement.

The Montgomery County Planning Board recommended approval of ZTA 07-07 with suggestions for the purpose of clarification.

The County Council held a public hearing on July 19, 2007 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on September 10 to review the text amendment. After careful review of the materials of record, the Committee recommended that ZTA 07-07 be approved with amendments. The Committee concluded that property encumbered by a TDR easement should be subject to greater land use restrictions than land not so encumbered but more uses were appropriate than those in the ZTA as introduced. The additional uses allowed by the Committee's recommendation were advocated in public testimony. As amended, the ZTA would allow all accessory building and uses and all transportation, communication, and utilities. Other added uses were in the Committee's opinion directly related to residential or agricultural uses. The Committee also recommended a provision to grandfather existing buildings.

The District Council reviewed Zoning Text Amendment No. 07-07 at a worksession held on October 2, 2007. The Council agreed with the Committee recommendation to approve ZTA 07-07 as amended.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 07-07 will be approved as amended.

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-9 is amended as follows:**

2 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

3 * * *

4 **59-C-9.3 Land uses.**

5 * * *

	Rural	RC	LDRC	RDT[[[*]]	RS	RNC	RNC/TDR
(a) Agricultural:							
Agricultural processing, primary						P	P
Equestrian facility. ⁴¹	P/SE	P/SE	P/SE	P/SE	P/SE	SE ²	SE ²
Farm. ¹	P	P	P	P	P	P	P
Fish hatchery.	P	P	P	P	P		
Other agricultural use.	P	P	P	P	P	P	P
(b) Agricultural-Industrial:							
Abattoir.	SE	SE ²	SE ²	SE			
Agricultural processing. ³⁶	SE	SE ²	SE ²	SE	SE		
Construction Debris Reclamation Facility.					P		
Contractors storage yard ²⁸ (existing)					P		
Grain elevator. ³⁶	SE	SE ²	SE ²	SE	SE		
Manufacture of light sheet metal products. ²⁸ (existing)					P		
Manufacture of mulch and composting.	SE	SE ²	SE ²	SE	SE		
Milk plant. ³⁷	SE	SE ²	SE ²	SE			
Sawmill.	SE	SE ²	SE ²	SE			
Storage for recycling of building or construction materials. ²⁸ (existing)					P		

	Rural	RC	LDRC	RDT[[*]]	RS	RNC	RNC/TDR
Winery. ³⁸	SE/P	SE/P	SE/P	SE/P	SE/P	SE ²	SE ²
Wood product and furniture manufacturing. ²⁸ (existing)					P		
(c) Agricultural-Commercial:							
Blacksmith. ⁴	SE	SE ²	SE ²	SE	P	P ²	P ²
Christmas tree sales between December 5 and 25.	P	P	P	P	P	P ²	P ²
Country market.	SE	SE	SE	SE	P	SE ²	SE ²
Farm market. ⁵	P	P	P	P	P	P ²	P ²
Landscape contractor. ^{3,2}	SE	SE	SE	SE	P	SE ²	SE ²
Nursery, horticultural - retail. ^{1,3}	SE	SE	SE	SE	P	SE ²	SE ²
Nursery, horticultural - wholesale. ^{1,3}	SE	SE ²	SE ²	SE	P	SE ²	SE ²
(d) Resource Production and Extraction:²							
Rock or stone quarry, as a temporary use.	SE	SE	SE	SE*			
Sand, gravel or clay pit, or extraction of other natural materials, as a temporary use.	SE	SE	SE	SE*			
(e) Residential:²							
Accessory apartment. ^{6,7}	SE	SE	SE	SE*		SE	SE
Accessory dwelling. ⁷	SE	SE	SE	SE*	SE	SE	
Accessory dwelling for agricultural workers. ⁴²				P			
Bed-and-breakfast lodging with one or 2 guest rooms. ³¹	P	P	P	P*	P	P	P
Bed-and-breakfast lodging with 3, 4 or 5 guest rooms. ¹⁸	SE	SE	SE	SE*	P	SE	SE
Dwelling, one-family detached.	P	P	P	P	P	P	P

	Rural	RC	LDRC	RDT[[[*]]	RS	RNC	RNC/TDR
Dwelling, one-family semidetached. ⁴⁴						P	P
Farm tenant dwelling. ⁸	P	P	P	P		P	P
Farm tenant mobile home, more than one but less than 4. ⁸	SE	SE	SE	SE		SE	SE
Group home, small.	P	P	P	P*	P	P	P
Group home, large. ¹⁵	SE	SE	SE	SE*	SE	SE	SE
Guest house, as accessory use. ⁸	P	P	P	P*	P	P	
Guest rooms, for not more than 2 roomers in any dwelling unit.	P	P	P	P*	P	P	P
Housing and related facilities for senior adults or persons with disabilities.	SE	SE	SE		SE	SE	SE
Life care facility.	SE	SE	SE			SE	SE
Mobile home, double-wide. ⁹	P	P	P	P*	P	P	P
Registered living unit. ^{6,20}	P	P	P	P*	P	P	P
Townhouse.						P	P
(f) Transportation, Communication and Utilities:							
Airstrip, associated with farm.		SE ²	SE	SE			
Amateur radio facility.	P ^{46/} SE	P ^{46/} SE	P ^{46/} SE	P ^{46/} SE	P ^{46/} SE	P ^{46/} SE	
Cable communication system. ¹⁰	SE	SE	SE	SE	SE	SE	SE
Electric power transmission and distribution line, overhead, carrying more than 69,000 volts.	SE	SE	SE	SE	SE	SE	SE
Electric power transmission and distribution line, overhead, carrying 69,000 volts or less.	P	P	P	P	P	P	P

	Rural	RC	LDRC	RDT[[*]]	RS	RNC	RNC/TDR
Electric power transmission and distribution line, underground.	P	P	P	P	P	P	P
Helistop.	SE	SE ^{2,11}	SE ^{2,11}	SE ¹¹			
Parking of motor vehicles, off-street, in connection with any use permitted.	P	P	P	P	P	P	P
Parking of motor vehicles, off-street, in connection with commercial uses.	P ³⁹			P ³⁹			
Pipeline, aboveground.	SE	SE	SE	SE	SE		
Pipeline, underground.	P	P	P	P	P	P	P
Public utility buildings and structures.	SE	SE	SE	SE	SE	SE ²	SE ²
Radio or television broadcasting stations and towers.	SE	SE ²	SE ²	SE	SE		
Railroad track.	P	P	P	P	P		
Rooftop mounted antennas and related unmanned equipment building, equipment cabinets, or equipment room. ²⁷	P	P		P		P	P
Telecommunications facility.	P ³³ / SE	P ³³ / SE	P ³³ / SE	P ³³ / SE	P ³² / SE	SE ²	
Telephone or telegraph line.	P	P	P	P	P	P	P
(g) Commercial:²							
Antique shop.	SE	SE	SE	SE*	P	SE	SE
Auction facility. ¹²				SE*	P		
Farm machinery: sales, storage, or service.		SE	SE	SE*	P		
Farm supply: sales, storage, or service.		SE	SE	SE*	P		
Transitory use. ²⁶	P/SE	P/SE		P*/SE*		P/SE	P/SE

	Rural	RC	LDRC	RDT[[*]]	RS	RNC	RNC/TDR
(h) Services:²							
Adult foster care home.	P	P	P	P [*]	P	P	P
Ambulance or rescue squad, publicly supported.	P	P	P	P [*]	P	P	P
Animal boarding place.	SE	SE	SE	SE	SE	SE	SE
Cemetery.	SE	SE	SE	SE [*]	SE	SE	SE
Charitable or philanthropic institution. ¹⁹	SE	SE	SE	SE [*]	SE	SE	SE
Child day care facility:							
—Family day care home.	P	P		P	P	P	P
—Group day care home. ³⁴	P	P		P [*]	P	P	P
—Child day care center.	SE	SE		SE [*]	P	SE	SE
Church, memorial garden, convent, monastery, and/or other place of worship.	P	P	P	P [*]	P	P	P
Day care facility for more than 4 senior adults and persons with disabilities.	SE	SE	SE	SE [*]	SE	SE	SE
Day care facility for not more than 4 senior adults and persons with disabilities. ¹⁴	P	P	P	P [*]	P	P	P
Domiciliary care home for more than 16 residents. ³⁵	SE	SE	SE	SE [*]	SE	SE	SE
Educational institution, private.	SE	SE	SE	SE ^{13,*}	SE	SE	SE
Family burial sites.	SE	SE	SE	SE			
Fire station, publicly supported.	P	P	P	P [*]	P	P	P
Funeral parlor or undertaking establishment				SE ^{40,*}			
Home health practitioner's office.	P ^{22/} SE ²¹	P ^{22/} SE ²¹	P ^{22/} SE ²¹	P ^{22,*/} SE ^{21,*}	P ^{22/} SE ²¹	P ^{22/} SE ²¹	P ^{22/} SE ²¹

	Rural	RC	LDRC	RDT[[*]]	RS	RNC	RNC/TDR
Home occupation, major. ²¹	SE	SE	SE	SE*	SE	SE	SE
Home occupation, registered. ²²	P	P	P	P*	P	P	P
Home occupation, no impact. ²³	P	P	P	P	P	P	P
Hospice care facility.	SE	SE	SE	SE*	SE	SE	SE
Hospital, veterinary.	SE	SE	SE	SE*	SE	SE	SE
Nursing home. ³⁵	SE	SE			SE	SE	SE
Offices, general. ²⁹					SE		
Publicly owned or publicly operated use.	P	P	P	P	P	P	P
Respite care home.	P	P	P	P*	P	P	P
Sanitarium.	SE	SE	SE	SE*	SE	SE	SE
(i) Cultural, Entertainment and Recreational:							
Boathouse, private.	P	P	P	P*	P		
Camp retreat, non-profit.		P ⁴⁵					
Campground.	SE						
Country club.	SE	SE	SE				
Golf course.	SE	SE	SE	SE ^{25,*}			
Hunting or fishing cabin, private. ¹⁶	P	P	P	P*			
Kennel, noncommercial.	P	P	P	P	P	P	P
Libraries and museums. ³⁰		P				P ²	P ²
Private club or service organization.	SE	SE	SE	SE*	SE	SE ²	SE ²
Recreational or entertainment establishment, or commercial.	SE				SE		
Riding stable, private. ¹⁷						P	

	Rural	RC	LDRC	RDT[[*]]	RS	RNC	RNC/TDR
Rifle, pistol, or skeet shooting range, outdoor.	SE	SE ²	SE ²	SE [*]	SE		
Swimming pool, community.	SE	SE	SE			SE ²	SE ²
Swimming pool, private. ¹⁶	P	P	P	P [*]	P	P	P
Theater, legitimate.	SE				SE		
(j) Miscellaneous:							
Accessory buildings and uses. ⁴⁷	P	P	P	P	P	P	P
Security pavilion.	P ⁴³	P ⁴³	P ⁴³	P ⁴³	P ⁴³	P ⁴³	P ⁴³
Signs, in accordance with the provisions of Article 59-F.	P	P	P	P	P	P	P
Wildlife or game preserve, regulated shooting ground licensed by the Maryland Wildlife Administration, and other conservation areas.	P	P	P	P	P		

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7 * If a property is [[under]] encumbered by a recorded transfer of developments
 8 rights easement, [[only the following uses are allowed.

9 (a) one-family dwellings;

10 (b) all agricultural uses;

11 (c) all agricultural-industrial uses; and

12 (d) all agricultural-commercial uses.

13 Each use that requires a special exception under Sec. 59C-9.3 is allowed
 14 only by the approval of a special exception.]] this use is prohibited.

15 However, any building existing on October 2, 2007 may be repaired or
 16 reconstructed if the floor area of the building is not increased and the use is
 17 not changed.

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19 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
20 Council adoption.

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23 This is a correct copy of Council action.

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Linda M. Lauer

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Linda M. Lauer, Clerk of the Council