

Ordinance No.: 19-23  
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: September 14, 2021  
Adopted: October 19, 2021  
Effective: November 8, 2021

**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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Lead Sponsor: Council President at the request of the Planning Board

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**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

**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

Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village, lead sponsor Council President at the request of the Planning Board, was introduced on July 20, 2021. ZTA 21-04 will establish the Germantown-Churchill Village Overlay zone. This Overlay zone covers approximately 1,270 acres of land and will support the implementation of new zoning recommended by the recently adopted master plan by offering protections to the existing development character of Churchill Village

The County Council approved and adopted the Germantown Plan for the Town Sector Zone in July 2020. As part of this master plan, the Planning Board transmitted both this ZTA and a Sectional Map Amendment (SMA) to amend the zoning map and Zoning Ordinance as recommended by the master plan.

The County Council held a public hearing on September 14, 2021. There were no speakers.

The County Council referred the text amendment to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation. The PHED Committee held a worksession on September 27, 2021. The PHED Committee unanimously (3-0) recommended approval of ZTA 21-04 without amendments.

At a District Council session on October 19, 2021, the Council agreed with the recommendation of the Committee.

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. 21-04 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. 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 November 7, 2021 that
- 84 does not meet its current zoning is conforming and may be continued,
- 85 renovated, repaired, or reconstructed if the floor area, height, and
- 86 footprint of the structure are not increased, except as provided below.
- 87 2. On a lot that has not changed in size or shape since November 8,
- 88 2021, a detached house, duplex, or townhouse may be constructed,
- 89 reconstructed, or expanded:
  - 90 a. without regard to the minimum lot size or lot width at the front
  - 91 building line; and
  - 92 b. in a manner that satisfies the maximum building height and lot
  - 93 coverage of its current zone and the side, front, and rear setback
  - 94 that was required when the lot was first created.
- 95 3. a. A legal use existing on November 7, 2021 is conforming and
- 96 may be continued. Expansion of any such use must satisfy the
- 97 standards of the current zone under Article 59-3.
- 98 b. An existing Charitable, Philanthropic Institution (as defined by
- 99 Section 3.4.2) may expand without conditional use approval but
- 100 must satisfy Section 4.9.10.D.

101 **Section [4.9.10] 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay**  
102 **Zone**

103 \* \* \*

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

105 \* \* \*

106 **E. Existing Buildings and Uses**

107 \* \* \*





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

136 \* \* \*

137 **C. Development Standards**

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

140 \* \* \*

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

142 \* \* \*

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

148 \* \* \*

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

151 \* \* \*

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

154 \* \* \*

155 **D. Site Plan**

156 \* \* \*

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

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

165 \* \* \*  
166 **Section [4.9.17] 4.9.18. Transferable Development Rights (TDR) Overlay Zone**

167 \* \* \*  
168 **B. Optional Method**

169 **1. In General**

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

174 **a. Applicability**

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

182 \* \* \*  
183 **c. Recording of Development Right**

184 \* \* \*  
185 ii. A final record plat for a subdivision using transferred  
186 development rights must contain a statement including  
187 the development proposed, the zoning classification of  
188 the property, the number of development rights used, and

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

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

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

207 **e. Additional Findings**

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

215 \* \* \*

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

217 \* \* \*

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

219 \* \* \*

220 **B. Exemptions**

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

222 \* \* \*

223 **C. Land Uses**

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

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

230 \* \* \*

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

235 \* \* \*

236 **E. Waiver**

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

239 \* \* \*

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

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

243 \* \* \*

244 **B. Exemptions**

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

246 \* \* \*

247 **D. Waiver**

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

250 \* \* \*

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

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

254 \* \* \*

255  
256

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

* * *	* * *
Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.	New ZONING ORDINANCE
* * *	* * *
<b>Division 59-C-18. Overlay Zones.</b>	
* * *	* * *
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

257

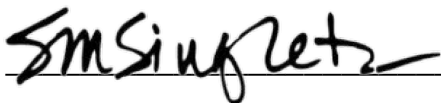
258           **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the  
259 date of Council adoption.

260

261 This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.

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Clerk of the Council