

Ordinance No:  
Zoning Text Amendment No: 09-08  
Concerning: Commercial/Residential (CR) Zones -  
Establishment  
Draft No. & Date: 6 – 1/15/09  
Introduced: September 22, 2009  
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**

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By: District Council at Request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- Establish Commercial/Residential (CR) zones; and
- Establish the intent, allowed land uses, development methods, general requirements, development standards, density incentives, and approval procedures for development under the Commercial/Residential zones.

By adding the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-15 “COMMERCIAL/RESIDENTIAL ZONES”  
Sections 59-C-15.1 through 59-C-15.9

**EXPLANATION:** *This is a clean and complete version of the entire text of Division.*

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:*

**Sec. 1. Division 59-C-15 is added as follows:**

1 **DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL (CR) ZONES**

2  
3 **59-C-15.1. Zones Established.**

4  
5 **59-C-15.11.** The Commercial/Residential (CR) zones are established as combinations of  
6 a sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-residential  
7 FAR, maximum residential FAR, and maximum building height. These zones are  
8 identified by a sequence of symbols: CR, C, R, and H, each followed by a number  
9 where:

- 10  
11 (a) The number following the symbol “CR-“ is the maximum total FAR;  
12  
13 (b) The number following the symbol “C” is the maximum non-residential FAR;  
14  
15 (c) The number following the symbol “R” is the maximum residential FAR; and  
16  
17 (d) The number following the symbol “H” is the maximum building height in feet.  
18

19 The examples in this Division do not add, delete, or modify any provision of this  
20 Division. Examples are provided only to demonstrate particular applications of the  
21 provisions in the Division. Examples are not intended to limit the provisions.  
22

23 **59-C-15.12.** Each unique sequence of CR, C, R, and H is established as a zone under the  
24 following limits:

- 25  
26 (a) The maximum total FAR must be established as an increment of 0.25 from 0.5 up  
27 to 8.0;  
28  
29 (b) The maximum non-residential and residential FAR must be established as an  
30 increment of 0.25 from 0.25 up to 7.5; and  
31 (c) The maximum height must be established as an increment of 5 feet up to 100 feet  
32 and an increment of 10 feet from 100 feet up to 300 feet.  
33  
34 (d) Permitted density may be averaged over 2 or more directly abutting or  
35 confronting lots in one or more CR zones, provided that:  
36  
37 (1) The lots are subject to the same sketch plan;  
38  
39 (2) The lots are created by the same preliminary subdivision plan;  
40

- 41 (3) The maximum total density and non-residential and residential density  
42 limits apply to the entire development, not to individual lots;  
43  
44 (4) No building may exceed the maximum height set by the zone;  
45  
46 (5) Public benefits must be provided in accordance with the phasing element  
47 of an approved sketch plan; and  
48  
49 (6) The resulting development must conform to the design and land use  
50 objectives of the applicable master or sector plan and design guidelines.  
51

52 **59-C-15.13.** The CR zones can only be applied by sectional map amendment, and when  
53 specifically recommended in an approved and adopted master or sector plan.  
54

55 *Examples:*

- 56 • An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-  
57 residential and residential FARs of 1.0, thereby requiring an equal mix of uses to obtain the  
58 total FAR allowed. The height for any building in this zone is limited to 80 feet.  
59 • An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR of up to 5.0, a non-  
60 residential FAR of up to 3.0, and a mix of the two uses could yield a total FAR of 6.0. This  
61 combination allows for flexibility in the market and shifts in the surrounding context. The  
62 height for any building in this zone is limited to 200 feet.  
63 • An area zoned CR-4.0, C4.0, R4.0, H160 allows the ultimate flexibility in the mix of uses,  
64 including buildings with no mix, because the maximum allowed non-residential and  
65 residential FARs are both equivalent to the total maximum FAR allowed. The height for any  
66 building in this zone is limited to 160 feet.

67  
68

69 **59-C-15.2. Description and Objectives of the CR Zones.**

70

71 The CR zones permit a mix of residential and non-residential uses at varying densities and  
72 heights. The zones promote economically, environmentally, and socially sustainable  
73 development patterns where people can live, work, and have access to services and amenities  
74 while minimizing the need for automobile use. The application of the CR zones is appropriate  
75 where ecological impacts can be moderated by co-locating housing, jobs, and services. The  
76 objectives of the CR zones are to:

77

- 78 (a) Implement the policy recommendations of applicable master and sector plans;
- 79
- 80 (b) Target opportunities for redevelopment of single-use areas and surface parking lots with  
81 a mix of uses;
- 82
- 83 (c) Reduce dependence on the automobile by encouraging development that integrates a  
84 combination of housing types, mobility options, commercial services, and public  
85 facilities and amenities;
- 86
- 87 (d) Encourage an appropriate balance of employment and housing opportunities and  
88 compatible relationships with adjoining neighborhoods;
- 89
- 90 (e) Establish the maximum density and building height for each zone, while retaining  
91 appropriate development flexibility within those limits; and
- 92
- 93 (f) Standardize optional method development by establishing minimum requirements for the  
94 provision of the public benefits that will support and accommodate density above the  
95 standard method limit.

96

97

98 **59-C-15.3. Definitions Specific to the CR Zones.**

99

100 The following words and phrases, as used in this Division, have the meaning indicated. The  
101 definitions in Division 59-A-2 otherwise apply.

102

103 **Car share space:** a parking space that serves as the location of an in-service vehicle used by a  
104 vehicle-sharing service.

105

106 **Cultural institutions:** public or private institutions or businesses including: art, music, and  
107 photographic studios; auditoriums or convention halls; libraries and museums; recreational or  
108 entertainment establishments, commercial; theater, indoor; theater, legitimate.

109

110 **Day care facilities and centers:** facilities and centers that provide daytime care for children  
111 and/or adults, including: child daycare facility (family day care, group day care, child day  
112 care center); daycare facility for not more than 4 senior adults and persons with disabilities;  
113 and day care facility for senior adults and persons with disabilities.

114

115 **Frontage:** a property line shared with an existing or master-planned public or private road,  
116 street, highway, or alley right-of-way or easement boundary.

117

118 **LEED:** the series of Leadership in Energy and Environmental Design (LEED) rating systems  
119 developed by the Green Building Council as amended.

120

121 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for non-residential  
122 and residential purposes where the residential use of the space may be secondary or  
123 accessory to the primary use as a place of work.

124

125 **Manufacturing and production, artisan:** The manufacture and production of commercial  
126 goods by a skilled manual worker or craftsman, such as jewelry, metalwork, cabinetry,  
127 stained glass, textiles, ceramics, or hand-made food products.

128

129 **Public Arts Trust Steering Committee:** A committee of the Arts and Humanities Council that  
130 allocates funds from the Public Arts Trust.

131

132 **Public owned or operated uses:** Activities that are located on land owned by or leased and  
133 developed or operated by a local, county, state, or federal body or agency.

134

135 **Recreational facilities, participatory:** Facilities used for sports or recreation.

136

137 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered annually for a  
138 limited period of time during the same calendar period each year. The availability or demand  
139 for the use or product is related to the calendar period, such as Christmas trees, pumpkin  
140 patches, or corn mazes.

141  
142 **Transit proximity:** Transit proximity is the distance, determined at the time of a sketch plan  
143 application, a proposed project is from an existing or planned public transit station or stop.  
144 There are three levels of transit stations or stops: 1. Level 1 is a Metrorail Station; 2. Level 2  
145 is a light rail or bus rapid transit station; and 3. Level 3 is a bus stop that does not have both a  
146 dedicated and fixed path but has service intervals that are no longer than 15 minutes during  
147 peak commute hours.

148  
149

150 **59-C-15.4. Methods of Development and Approval Procedures.**

151

152 Two methods of development are available under the CR zones.

153

154 **59-C-15.41. Standard Method.**

155

156 Standard method development must comply with the general requirements and  
157 development standards of the CR zones. Unless otherwise provided for in this division, a  
158 site plan approval under Division 59-D-3 is required for a standard method development  
159 project only if:

160

161 (a) The gross floor area exceeds 10,000 square feet; or

162

163 (b) Any building or group of buildings contains 10 or more dwelling units.

164

165 **59-C-15.42. Optional Method.**

166

167 Optional method development must comply with the general requirements and  
168 development standards of the CR zones and must provide public benefits under Section  
169 59-C-15.8 to obtain greater density or height than allowed under the standard method. A  
170 sketch plan and site plan are required for any development using the optional method. A  
171 sketch plan must be filed under the provisions below; a site plan must be filed under  
172 Division 59-D-3. Any required preliminary subdivision plan must be submitted  
173 concurrently with a sketch plan or site plan.

174

175 (a) A sketch plan application must contain:

176

177 (1) A justification statement that addresses how the project meets the  
178 requirements and standards of this Division for optional method  
179 development and describes how the development will further the objectives  
180 of the applicable master or sector plan;

181

182 (2) An illustrative plan and/or model that shows the maximum densities for  
183 residential and non-residential uses, massing, and heights of buildings;  
184 locations of public use and other open spaces; and the relationships  
185 between existing and/or proposed buildings on adjoining tracts;

186

187 (3) An illustrative diagram of proposed vehicular, pedestrian, and bicycle  
188 access, circulation, parking, and loading areas;

189



- 190 (4) A table of proposed public benefits and the incentive density requested for  
191 each; and  
192
- 193 (5) The general phasing of structures, uses, public benefits, and site plan  
194 applications.  
195
- 196 (b) Procedure for a sketch plan:  
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- 198 (1) Before filing a sketch plan application, an applicant must comply with the  
199 provisions of Section 4 of the Manual for Development Review  
200 Procedures for Montgomery County, as amended, that concern the  
201 following:  
202
- 203 (A) Notice;  
204
- 205 (B) Posting the site of the application submittal; and  
206
- 207 (C) Holding a pre-submittal meeting.  
208
- 209 (2) A public hearing must be held by the Planning Board on each sketch plan  
210 application no later than 90 days after the filing of an optional method  
211 development application unless a request to extend this period is requested  
212 by the applicant, Planning Board staff, or other interested parties, provided  
213 that such extension is found to be reasonable and not to constitute  
214 prejudice or undue hardship on any interested party. A recommendation  
215 regarding any request for extension must be acted upon as a consent  
216 agenda item by the Planning Board on or before the 90-day hearing period  
217 expires. Notice of the extension request and recommendation by Staff  
218 must be posted no less than 10 days prior to the item's agenda date.  
219
- 220 (3) No less than 10 days prior to the public hearing on a sketch plan, Planning  
221 Board staff must submit its analysis of the application including its  
222 findings, comments, and recommendations with respect to the  
223 requirements and standards of this division and any other matters that may  
224 assist the Planning Board in reaching its decision on the application. This  
225 staff report must be included in the record of the public hearing.  
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- 227 (c) In approving a sketch plan, the Planning Board must find that the following  
228 elements are appropriate in concept and ready for further detailed review at site  
229 plan:

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- (1) The plan meets the requirements and standards of this division, the development will further the objectives of the applicable master or sector plan, and will provide more efficient and effective development of the site than the standard method of development;
  - (2) The proposed building massing and height and public use and other open spaces are located and scaled to achieve compatible relationships with each other and with existing and proposed buildings and open space adjacent to the site and with adjacent communities;
  - (3) The general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading areas are adequate, safe, and efficient;
  - (4) The proposed public benefits and associated requested incentive density will further the objectives of the applicable master or sector plan and will improve the environmental, economic, and social sustainability of the project and its environs; and
  - (5) The general phasing of structures, uses, public benefits, and site plans is feasible and appropriate to the scale and characteristics of the project.
- (d) The Planning Board may approve changes or modification of its findings regarding a sketch plan at the time of site plan review. The applicant must identify any inconsistency between the approved sketch plan and the proposed site plan in the notice of application for the site plan.

258 **59-C-15.5. Land Uses.**

259

260 No use is allowed in the CR zones except as indicated below:

261

262 - *Permitted Uses* are designated by the letter “P” and are permitted subject to all  
 263 applicable regulations.

264

265 - *Special Exception Uses* are designated by the letters “SE” and may be authorized  
 266 as special exceptions under Article 59-G.

267

|   |    |
|---|----|
| <b>a) Agricultural</b>  |    |
| Farm and country markets  | P  |
| Farm, limited to crops, vegetables, herbs, and ornamental plants              | P  |
| Nursery, horticultural – retail or wholesale                                  | P  |
| Seasonal outdoor sales  | P  |
| <b>b) Residential</b>   |    |
| Dwellings   | P  |
| Group homes, small or large   | P  |
| Hospice care facilities   | P  |
| Housing and related facilities for senior adults or persons with disabilities | P  |
| Life care facilities  | P  |
| Live/Work units   | P  |
| Personal living quarters  | P  |
| <b>c) Commercial Sales and Service</b>  |    |
| Advanced technology and biotechnology   | P  |
| Ambulance or rescue squads  | P  |
| Animal boarding places  | SE |
| Automobile filling stations   | SE |
| Automobile rental services, excluding storage of vehicles and supplies        | P  |
| Automobile repair and services  | P  |
| Automobile sales, indoors and outdoors  | P  |
| Clinic  | P  |
| Conference centers  | P  |
| Eating and drinking establishments  | P  |
| Health clubs and gyms   | P  |
| Home occupations, major   | SE |
| Home occupations, registered and no-impact                                    | P  |

|  |    |
|--|----|
| Hotels and motels  | P  |
| Laboratories   | P  |
| Dry cleaning and laundry pick-up stations  | P  |
| Offices, general   | P  |
| Recreational facilities, participatory   | P  |
| Research, development, and related activities  | P  |
| Retail trades, businesses, and services of a general commercial nature   | P  |
| Self-storage facilities  | SE |
| Veterinary hospitals and offices without boarding facilities   | P  |
| Warehousing, not including self-storage, less than 10,000 square feet  | P  |
| <b>d) Institutional &amp; Civic</b>  |    |
| Charitable and philanthropic institutions  | P  |
| Cultural institutions  | P  |
| Day care facilities and centers  | P  |
| Educational institutions, private  | P  |
| Hospitals  | P  |
| Parks and playgrounds, private   | P  |
| Private clubs and service organizations  | P  |
| Publicly owned or publicly operated uses   | P  |
| Religious institutions   | P  |
| <b>e) Industrial</b>   |    |
| Manufacturing and production, artisan  | P  |
| Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development | P  |
| Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment  | P  |
| <b>f) Other</b>  |    |
| Accessory buildings and uses   | P  |
| Bus terminals, no-public   | P  |
| Parking garages, automobile  | P  |
| Public utility buildings, structures, and underground facilities   | P  |
| Radio and television broadcast studios   | P  |
| Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms  | P  |

268

269

270 **59-C-15.6. General Requirements.**

271

272 Development in the CR zone must comply with the following requirements.

273

274 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

275

276 Development that requires a site plan must be consistent with the applicable master or  
277 sector plan and must address any design guidelines approved by the Planning Board to  
278 guide implementation of the applicable plan.

279

280 **59-C-15.62. Priority Retail Street Frontages.**

281

282 Development that requires a site plan and is located on a street identified as a priority  
283 retail street frontage in a master or sector plan or associated design guidelines must be  
284 developed in a manner that is consistent with the recommendations and objectives of the  
285 applicable plan and/or guidelines.

286

287 **59-C-15.63. Streetscape.**

288

289 Streetscape improvements must be consistent with the recommendations of the applicable  
290 master or sector plan and must address any design guidelines approved by the Planning  
291 Board to guide implementation of the applicable plan.

292

293 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

294

295 (a) Bicycle parking facilities must be secure and accessible to all residents or  
296 employees of the proposed development. Unsecured, exterior bicycle parking,  
297 such as inverted U-racks, must be provided free of charge.

298

299 (b) The number of bicycle parking spaces and shower/change facilities required is  
300 shown in the following table (calculations must be rounded to the higher whole  
301 number):

302

303

304

| <b>Bicycle and Shower/Change Facilities Required</b>                                     |  |
|--|--|
| Use  | Requirement  |
| <i>Residential</i>   |  |
| In a building containing less than 20 dwelling units.                                    | At least 4 bicycle parking spaces.   |
| In a building containing 20 or more dwelling units.                                      | At least 0.5 bicycle parking spaces per dwelling unit, not to be less than 4 spaces and up to a maximum of 100 required spaces.  |
| In any group living arrangement expressly for senior citizens.                           | At least 0.1 bicycle parking spaces per unit, not to be less than 2 spaces up to a maximum of 100 required spaces.   |
| <i>Non-Residential</i>   |  |
| In a building with a total non-residential floor area of 1,000 to 9,999 square feet.     | At least 2 bicycle parking spaces.   |
| In a building with a total non-residential floor area of 10,000 to 99,999 square feet.   | Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces.  |
| In a building with a total non-residential floor area of 100,000 square feet or greater. | Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces. One shower/change facility for each gender available only to employees at any time the building is accessible. |

305

306

**59-C-15.65. Parking.**

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308

(a) For projects that meet the requirements for transit proximity levels 1 or 2, the number of parking spaces provided on site must not exceed the number required under Article 59-E, except that the maximum number of parking spaces allowed for general retail and restaurant uses is 4 spaces for every 1,000 square feet of gross leasable area and no parking spaces are required for restaurant outdoor patron areas.

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315

(b) All projects that do not satisfy the requirements for transit proximity levels 1 or 2 must meet the parking requirements established under Article 59-E, except the number of parking spaces for general retail and restaurant uses established by paragraph (a) may be provided without a waiver.

316

317

318

319

320 (c) Except for retail and restaurant uses that satisfy subsection (a) and projects that  
 321 satisfy subsection (b), the minimum number of parking spaces required is based  
 322 on transit proximity as follows:  
 323

| <b>Minimum Parking Requirements</b>   |                                  |                          |                               |                      |
|---|----------------------------------|--------------------------|-------------------------------|----------------------|
|   | Transit Proximity (Level 1 or 2) |                          |                               |                      |
|   | Up to ¼ mile from transit        | ¼ to ½ mile from transit | ½ mile to 1 mile from transit | >1 mile from transit |
| Non-residential: the number of required spaces under Article 59-E multiplied by the following factor: | 0.20                             | 0.40                     | 0.60                          | 0.80                 |
| Residential: the number of required spaces under Article 59-E multiplied by the following factor:     | 0.60                             | 0.70                     | 0.80                          | 0.90                 |

324  
 325 A minimum of 75% of the gross tract area of a project must be within the  
 326 designated proximity level to qualify for the applicable reduction.  
 327

- 328 (d) Parking requirements must be met by any of the following:  
 329
- 330 (1) Providing the spaces on site;
  - 331
  - 332 (2) Constructing publicly available on-street parking, including on-street  
 333 parking in the public right-of-way; or
  - 334
  - 335 (3) Participating in a parking lot district or entering into an agreement for  
 336 shared parking spaces in a public or private facility within 1,000 feet of  
 337 the subject lot if the off-site parking facility is not in an agricultural  
 338 (Division 59-C-9), planned unit development (Division 59-C-7), or  
 339 residential (Division 59-C-1) zone.
  - 340
- 341 (e) Every “car-share” space provided reduces the total minimum number of required  
 342 spaces by 6 spaces for non-residential use or 3 spaces for residential use.  
 343  
 344

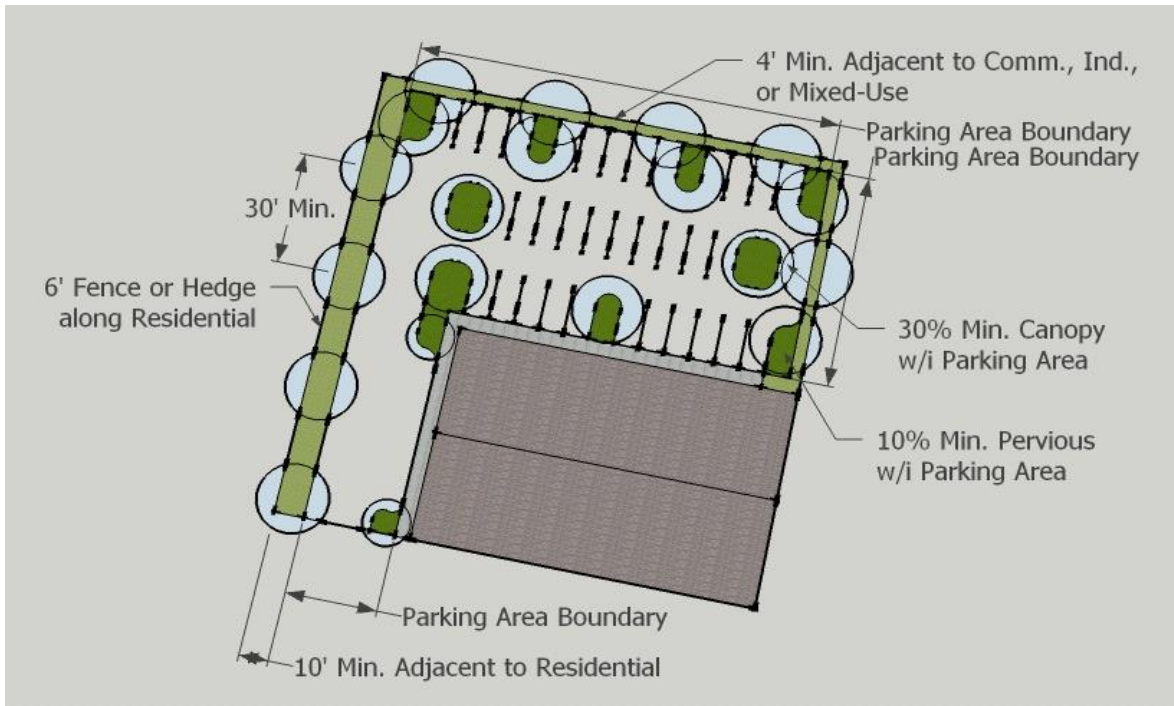
345 *Example:* A non-residential site requiring at least 100 spaces under Article 59-E would be  
 346 required to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a  
 347 transit station, the minimum requirement for parking would be 40 spaces (100 x 0.40 = 40). If 2  
 348 car-share spaces were provided, that requirement would be 28 for non-residential use or 34 for  
 349 residential use.

- 350
- 351 (f) The design of surface parking facilities must comply with the following:
- 352
- 353 (1) A parking facility at or above grade must not be located between the street  
 354 and the main front wall of the building or the side wall of a building on a  
 355 corner lot unless the Planning Board finds that safe and efficient  
 356 circulation would be better served by a different arrangement;
- 357
- 358 (2) If a site is adjacent to an alley, the primary vehicular access to the parking  
 359 facility must be from that alley; and
- 360
- 361 (3) Curb cuts must be kept to a minimum and shared by common  
 362 ingress/egress easements whenever possible.
- 363
- 364 (g) The design of parking facilities with drive-through services must comply with the  
 365 following; however, the Planning Board may approve a design if it finds that the  
 366 alternative design would provide safer and more efficient circulation:
- 367
- 368 (1) The driveway must not be located between the street and the main front  
 369 wall of a building or the side wall of a building on a corner lot;
- 370
- 371 (2) The drive-through service window must be located on the rear or side wall  
 372 of the building, provided that, in unusual circumstances such as an  
 373 atypical lot configuration or steep site, if located on the side wall of the  
 374 building, the drive-through service window must be permanently screened  
 375 from any public street; and
- 376
- 377 (3) Curb cuts to a street must be minimized to one drive aisle of no more than  
 378 20 feet in width for two-way traffic or two drive aisles each of no more  
 379 than 10 feet in width for one-way traffic.
- 380
- 381 (h) Landscaping for surface parking facilities must satisfy the following  
 382 requirements, except when modifications are necessary for internal driveway and  
 383 sidewalk connections between adjacent non-residential lots or parcels:
- 384



| Minimum Landscape Standards for Surface Parking                              |  |
|--|--|
| Subject  | Requirement  |
| Right-of-Way Screening   | 6-foot width of continuous soil panel or stormwater management recharge facility (not including any PUE or PIE) with groundcover, planting bed, or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards. |
| Adjacent to a lot or parcel in any Commercial, Industrial, or Mixed-Use Zone | 4-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; one deciduous tree per 30 feet of frontage.   |
| Adjacent to a lot or parcel in an Agricultural or Residential District       | 10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.   |
| Internal Pervious Area   | 10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.  |
| Tree Canopy Coverage   | 30 percent of the parking facility area (at 15 years growth).  |

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*Surface Parking Landscape Requirements Illustrative*

390 **59-C-15.7. Development Standards.**

391

392 Development in any CR zone must comply with the following standards.

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394 **59-C-15.71. Density.**

395

396 (a) The maximum density for any standard method project is the greater of 0.5 FAR  
397 or 10,000 gross square feet of floor area. Any single land use or any combination  
398 of land uses allowed in the zone may achieve the maximum density.

399

400 (b) The maximum total density and mix of maximum non-residential and residential  
401 density for any project using the optional method of development is specified by  
402 the zone.

403

404 **59-C-15.72. Height.**

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406 (a) The maximum height for any building or structure in a standard method project is  
407 40 feet.

408

409 (b) The maximum height for any building or structure in an optional method project  
410 is determined by the zone.

411

412 **59-C-15.73. Setbacks.**

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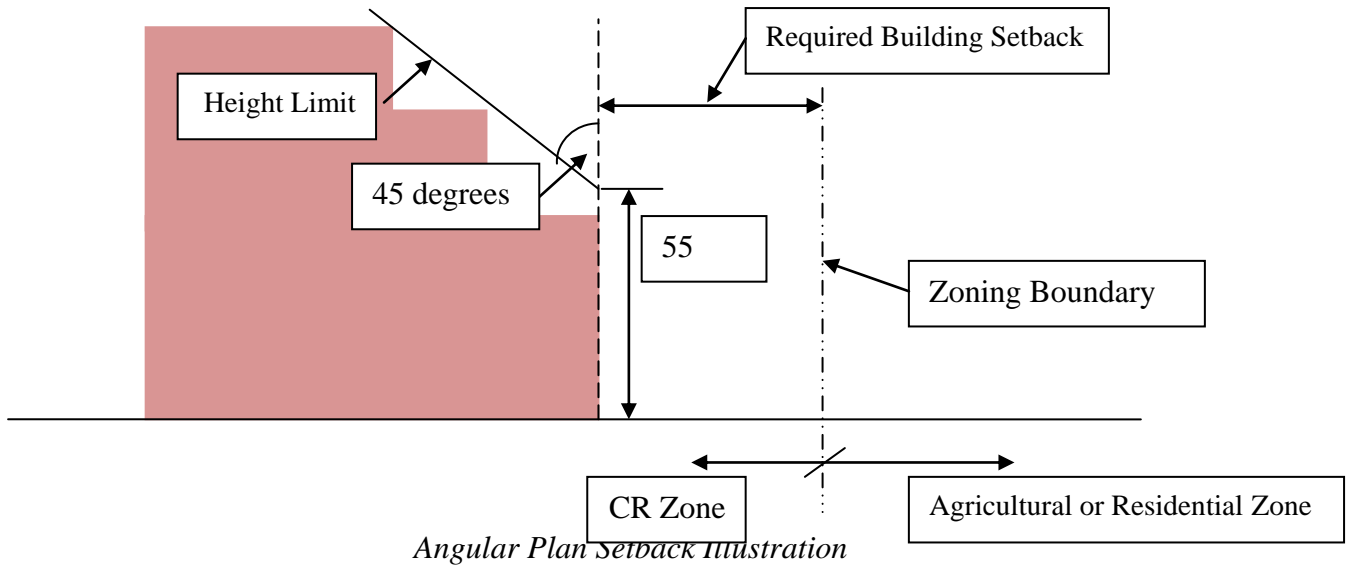
414 A building must not be any closer to a lot line shared with a property in an agricultural  
415 (Division 59-C-9) or residential (Division 59-C-1) zone than:

416

417 (a) 25 feet or the setback required by the adjacent lot, whichever is greater; and

418 (b) The building must not project beyond a 45 degree angular plane projecting over  
419 the lot measured from a height of 55 feet at the setback determined above, with  
420 the exception of those features exempt from height and setback restrictions under  
421 Section 59-B-1.

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- (c) A building existing when the CR zone is applied may retain its pre-existing setback if the height is not increased within that setback and the setback required by the CR zone, if greater.

**59-C-15.74. Public Use Space.**

- (a) The minimum public use space for any standard method project is 10 percent of the net lot area of the site.
- (b) Projects using the optional method of development must provide public use space as follows:

| Minimum Required Public Use Space (% of net tract area) |   |    |    |    |
|---|---|----|----|----|
| Acres (Gross)   | Number of Existing and Planned Right-of-Way Frontages |    |    |    |
|   | 1   | 2  | 3  | 4+ |
| < 1/2   | 0   | 0  | 0  | 5  |
| 1/2 - 1.00  | 0   | 0  | 5  | 10 |
| 1.01 - 3.00   | 0   | 5  | 10 | 10 |
| 3.01 - 6.00   | 5   | 10 | 10 | 10 |
| 6.01 +  | 10  | 10 | 10 | 10 |

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- (c) Public use space must:
  - (1) Be calculated on the net tract area of the area included in a sketch plan application;

- 443
- 444 (2) Be rounded to the next highest 100 square feet;
- 445
- 446 (3) Be easily and readily accessible to the public;
- 447
- 448 (4) Be distributed within the entire tract area included in the sketch plan
- 449 application; and
- 450
- 451 (5) Contain amenities such as seating options, shade, landscaping, or other
- 452 similar public benefits.
- 453
- 454 (d) Instead of providing on-site public use space, for any site of 3 acres or less, a
- 455 development may propose the following alternatives, subject to Planning Board
- 456 approval:
- 457
- 458 (1) Public use space improvements of an equal or greater size within ¼ mile
- 459 of the subject site; or
- 460
- 461 (2) A payment in part or in full to the Public Amenity Fund as provided for in
- 462 section 59-D-2.
- 463
- 464 (e) A development on a site greater than 3 acres may only provide off-site public use
- 465 space in order to provide master-planned open space improvements, or a payment
- 466 per paragraph 2 above, for an area of equal or greater size within the master plan
- 467 area of the proposed development and in accordance with an approved sketch
- 468 plan.
- 469

470 **59-C-15.75. Residential Amenity Space.**

471

- 472 (a) Any building containing 20 or more dwelling units must provide amenity space
- 473 for its residents as follows:
- 474

| Required Residential Amenity Space  |   |
|---|---|
| Type of Amenity Space   | Area of Amenity Space                                     |
| Indoor space in a multi-purpose room, fitness room, or other common community room(s), at least one of which must contain a kitchen and bathroom. | 20 square feet per dwelling unit up to 5,000 square feet. |

|   |  |
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| Passive or active outdoor recreational space. | 20 square feet per dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space. |
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- (b) The amenity space is not required for Moderately Priced Dwelling Units (MPDUs) on a site within a metro station policy area or where the Planning Board finds that there is adequate recreation and open space within a ½ mile radius of the subject site.
- (c) The amenity space requirement may be reduced by ½ for Workforce Housing Units (WFHUs) located within a metro station policy area or if the minimum public open space requirement is satisfied on site.
- (d) The provision of residential amenity space may be counted towards meeting the required recreation calculations under the M-NCPPC Recreation Guidelines, as amended.

490 **59-C-15.8. Special Regulations for the Optional Method of Development.**

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**59-C-15.81. Incentive Density Provisions.**

This section establishes incentives for optional method projects to provide public benefits in return for increases in density and height above the standard method maximums, consistent with the applicable master or sector plan, up to the maximum permitted by the zone.

(a) Public benefits must be provided that enhance or contribute to the environmental, economic, and social sustainability of a project and its environs in the following categories:

- (1) Master-planned major public facilities;
- (2) Transit proximity for residents, workers, and patrons;
- (3) Connectivity between uses and activities and mobility options
- (4) Diversity of uses and activities;
- (5) Quality of building and site design; and
- (6) Protection and enhancement of the natural environment.

Sections 59-C-15.82 through 59-C-15.87 elaborate the types of public benefits that may be accepted in each of these categories.

(b) Incentive density is calculated in one of two ways:

- (1) Method 1. The incentive density for public benefits that are primarily related to buildings or sites, such as LEED rating, floor-plate size, through-block connection, or rainwater recharge, may be distributed among one or more buildings or sites within the tract included in a sketch plan application and is based on the difference between the maximum standard method density on the entire tract and the approved density of the entire project.

528 *Example:* If a project composed of three buildings in a CR 4.0 zone (regardless of use mix or  
529 height) proposes an FAR of 3.5 among the various buildings, the incentive density approved for  
530 additional public open space is based on the difference between 3.5 FAR and 0.5 FAR (the  
531 assumed standard method maximum), or 3.0 FAR. Further, if the public open space is awarded a  
532 20% incentive, the resulting allowed incentive density applied to the project would be 0.6 FAR.

533  
534 (2) Method 2. The incentive density for a public facility, such as a community  
535 center or land conveyed for a school or park, that is conveyed and/or built  
536 as part of a project may be distributed among one or more buildings and  
537 lots within the tract area included in a sketch plan application and is based  
538 on the difference between the maximum standard method density on the  
539 entire tract and the maximum allowed density of the zone.

540  
541 *Example:* If a project in a CR 6.0 zone (regardless of use mix or height) proposes any FAR at or  
542 below 6.0 among various buildings and/or sites, the incentive density approved for the  
543 construction of a community recreation facility is based on the difference between 6.0 FAR and  
544 0.5 FAR (the standard method maximum), or 5.5 FAR. Further, if the community recreation  
545 facility is awarded a 30% incentive, the resulting incentive density applied to the project would  
546 be 1.65 FAR.

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548 (3) The height of any individual building must not exceed the maximum  
549 height of the zone and must be consistent with the recommendations of the  
550 applicable master or sector plan.

551  
552 (c) In approving any incentive density based on the provision of public benefits, the  
553 Planning Board must consider:

- 554  
555 (1) The policy objectives and priorities of the applicable master or sector  
556 plan;  
557  
558 (2) Any applicable design guidelines and any adopted public benefit standards  
559 and guidelines;  
560 (3) The size and configuration of the tract;  
561  
562 (4) The relationship of the site to adjacent properties;  
563  
564 (5) The presence or lack of similar public benefits nearby; and  
565  
566 (6) Enhancements that increase public access to or enjoyment of the benefit.  
567

568 The Planning Board must adopt, publish, and maintain guidelines that detail the  
 569 standards and requirements for public benefits that may be provided for incentive  
 570 density. These guidelines are in addition to and do not supercede any standards,  
 571 requirements, or rules of incentive density calculation included in this division.  
 572

573 **59-C-15.82. Incentives for Master-Planned Major Public Facilities.**

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 575 Major public facilities such as schools, libraries, recreation centers, urban parks, and  
 576 county service centers provide public services at convenient locations, centers for  
 577 community meetings and civic events, and contribute focus and civic activity to the  
 578 public realm. Because of their significance in place-making, the Planning Board may  
 579 approve incentive density of up to 70 percent for the conveyance of a site and/or  
 580 construction of a major public facility that is designated on a master plan or sector plan  
 581 and is accepted for use and operation by the appropriate public agency, community  
 582 association, or nonprofit organization. Method 2.  
 583

584 **59-C-15.83. Incentives for Transit Proximity.**

585  
 586 In order to encourage greater use of transit, control sprawl, and reduce vehicle miles  
 587 traveled, congestion, and carbon emissions, the Planning Board may approve incentive  
 588 density for transit proximity under this section. The percentage of incentive density  
 589 awarded to a project for transit proximity is calculated according to Method 1 as follows:  
 590

| Transit Proximity          | Level 1 | Level 2 | Level 3 |
|----------------------------|---------|---------|---------|
| Adjacent or<br>confronting | 50%     | 30%     | 15%     |
| Within ¼ mile              | 40%     | 25%     | 10%     |
| Between ¼ and ½ mile       | 30%     | 20%     | 5%      |
| Between ½ and 1 mile       | 20%     | 15%     | 0%      |

- 591  
 592 (a) A project is adjacent to or confronting a transit station or stop if it shares a  
 593 property line, easement line, or is separated only by a right-of-way from an  
 594 existing or planned transit station or stop and 100 percent of the gross tract area  
 595 submitted in a single sketch plan application is within ¼ mile of the transit portal.  
 596  
 597 (b) For all other projects to qualify for the incentive density available at the other  
 598 distances, at least 75 percent of the gross tract area submitted in a single sketch  
 599 plan application must be within the range for which the incentive is proposed.  
 600 The incentive density for projects with less than 75 percent of the gross tract area



601 in one range must be calculated as a weighted average of the percentage of area in  
602 each range.

603

604 **59-C-18.84. Incentives for Connectivity and Mobility.**

605

606 In order to enhance connectivity between uses and amenities and increases mobility  
607 options, encourage non-automotive travel for short and multi-purpose trips as well as for  
608 commuting, facilitate social and commercial interaction, provide opportunities for  
609 healthier living, and stimulate local businesses, the Planning Board may approve  
610 incentive density of up to 30% to a project that provides at least two of the following  
611 public benefits:

612

613 (a) Neighborhood Services: Safe and direct pedestrian access to 10 different retail  
614 services on site or within ¼ mile, of which at least 4 have a maximum retail bay  
615 floor area of 5,000 square feet. Method 1.

616

617 (b) Community Gardens: Safe and accessible garden space of 500 square feet or one  
618 16 square-foot plot per 20 dwelling units, whichever is greater, on site or within  
619 500 feet of the site. Method 1.

620

621 (c) Minimum Parking: Provision of the minimum required parking for projects of one  
622 acre of gross tract area or more. Method 1.

623

624 (d) Through-Block Connections: Safe and attractive pedestrian connections between  
625 streets. Method 1.

626

627 (e) Public Parking: Provision of up to the maximum number of parking spaces  
628 allowed in the zone as public parking free or at a market rate. Method 2.

629

630 (f) Transit Access Improvement: Ensuring that access to transit facilities meets  
631 County standards for handicapped accessibility. Method 1.

632

633 **59-C-15.85. Incentives for Diversity of Uses and Activities.**

634

635 In order to increase the variety and mixture of land uses, types of housing, economic  
636 diversity, and community activities; contribute to development of a more efficient and  
637 sustainable community; reduce the necessity for automobile use; and facilitate healthier  
638 lifestyles and social interaction, the Planning Board may approve incentive density of up  
639 to 30% to a project that provides affordable housing or a public facility, as described  
640 below, or at least two of the other following public benefits:

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(a) Affordable Housing: All residential development must comply with the requirements of Chapters 25A and 25B for the provision of Moderately Priced Dwelling Units (MPDUs) and Workforce Housing Units (WFHUs).

(1) MPDU Incentive Density: Provision of MPDUs above the minimum required is calculated by Method 1 and the required number of MPDUs is calculated on the total number of dwelling units as required by Chapter 25A and the percent of incentive density increase is based on the proposed FAR for the entire project.

*Example:* Provision of 14.5% MPDUs is awarded an incentive density of 20% (see 25-A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that equals  $0.20 \times 4.0$  (the incentive density), which is 0.8 FAR.

(2) WFHU Incentive Density: Provision of required or additional WFHUs is calculated by method 1 at the following rate: 2 times the percentage of units provided as WFHUs.

*Example:* Provision of 5% WFHUs is awarded incentive density of 10%, provision of 12% WFHUs is awarded incentive density of 24%.

(b) Adaptive Buildings: Provision of buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications. Method 1.

(c) Care Centers: Child or adult day care facilities. Method 2.

(d) Small Business Retention: Provision of on-site space for small, neighborhood-oriented businesses. Method 1.

(e) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-bedroom units. Method 1.

677 **59-C-15.86. Incentives for Quality Building and Site Design.**

678  
 679 High quality design is especially important in urban, integrated-use settings to ensure that  
 680 buildings and uses are compatible with each other and adjacent communities and to  
 681 provide a harmonious pattern of development. Due to the increased density of these  
 682 settings, buildings tend to have high visibility. High quality design may help to attract  
 683 residents and businesses to locate in these settings. Location, height, massing, façade  
 684 treatments, and ornamentation of buildings affect sense of place, orientation, and the  
 685 perception of comfort and convenience. The quality of the built environment affects  
 686 light, shadow, wind, and noise, as well as the functional and economic value of property.  
 687 In order to promote high quality design, the Planning Board may approve incentive  
 688 density of up to 30% to a project that provides at least two of the following public  
 689 benefits:

- 690
- 691 (a) Reduced Floor Plate: Provision of buildings in which floor areas above 120 feet  
 692 that do not exceed 10,000 square feet for residential uses or 19,000 square feet for  
 693 non-residential uses. The reduced floor plate must contain a minimum of 60%  
 694 glass on all exterior walls facing a street or public open space. Method 1.  
 695
- 696 (b) Historic Resource Protection: Preservation and/or enhancement of an historic  
 697 resource indicated on the Master Plan for Historic Preservation in conformance  
 698 with a plan approved by the Historic Preservation Commission. A fee-in-lieu for  
 699 a specific preservation project may be paid to the Historic Preservation Division  
 700 as specified in the Guidelines for Public Benefits. Method 1.  
 701
- 702 (c) Structured Parking: Parking provided within a structure or below-grade. Method  
 703 1.  
 704
- 705 (d) Tower Setback: Setback of building by a minimum of 6 feet beyond the first  
 706 floor façade at a maximum height of 72 feet. Method 1.  
 707
- 708 (e) Public Art: Provision of public art must be reviewed for comment by the Public  
 709 Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as  
 710 specified in the Guidelines for Public Benefits. Method 1.  
 711
- 712 (f) Public Open Space: Provision of open space in addition the the minimum required  
 713 by the zone. Public open space must be easily accessible to the public during  
 714 business hours and/or at least from sunrise to sunset and must contain amenities  
 715 such as seating, plantings, trash receptacles, kiosks, and water features. Method  
 716 1.

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(g) Streetscape: Construction of off-site streetscape in addition the requirements of this division. Method 1.

(h) Exceptional Design: Building design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces new materials, forms, or building methods; uses design solutions to make compact infill development living, working, and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building. Method 1.

**59-C-15.87. Incentives for Protection and Enhancement of the Natural Environment.**

In order to combat sprawl and mitigate or reverse environmental problems such as lack of groundwater recharge, inadequate carbon-sequestration, and pollution caused by reliance on the automobile, the Planning Board may approve incentive density of up to 50% for certain projects that purchase building lot terminations, as described below, or up to 30% to a project that provides a LEED Platinum, or County-approved equivalent, building, as described below, or at least two of the other following public benefits:

(a) Building Lot Termination (BLT): The Planning Board may approve incentive density for the purchase of Building Lot Termination easements or for payment to the Agricultural Land Preservation Fund in an amount set regularly by Executive Regulation under Chapter 2B, subject to the following conditions:

- (1) BLT easement purchases or payments must be whole units;
- (2) Each BLT easement purchase or payment allows 20,000 gross square feet of incentive density; and
- (3) The Planning Board may grant up to 20% of total incentive density for sites greater than ½ acre and up to 50% of the total incentive density for sites ½ acre or smaller.

(b) LEED, or County-Approved Equivalent: The incentive density for a building or project that achieves a LEED rating, or an equivalent rating approved under Chapter 8, Article VII, is calculated by method 1 for LEED for new construction

756 and LEED ND and method 2 for LEED for existing buildings according to the  
757 following:

- 758
- 759 (1) 10% for LEED Silver;
- 760
- 761 (2) 20% for LEED Gold; and
- 762
- 763 (3) 30% for LEED Platinum.
- 764
- 765 (c) Groundwater Recharge: Bio-retention and stormwater recharge facilities beyond  
766 existing County requirements on-site or within ¼ mile of the site must provide a  
767 minimum of 25% recharge of projected stormwater outfall for a 10-year event.  
768 Method 1.
- 769
- 770 (d) Lighting: Provision of lighting that complies with the standards established by the  
771 International Dark Sky Association, or county-approved equivalent. Method 1.
- 772
- 773 (e) Energy Conservation and Generation: Provision of energy-efficiency that exceeds  
774 standards for the building type by 17.5% for new buildings or 10% for existing  
775 buildings, or provision of renewable energy generation facilities on-site or within  
776 ½ mile of the site for a minimum of 2.5% of the projected energy requirement.  
777 Method 1.
- 778
- 779 (f) Green Wall: Installation and maintenance of a vegetated wall that covers at least  
780 30% of any blank wall or parking garage façade visible from a public street or  
781 open space. Method 1.
- 782
- 783 (g) Rainwater Reuse: Collection and reuse of at least 25% of rainwater from a 10-  
784 year event on site. Method 1.
- 785
- 786 (h) Tree Canopy: Coverage at 15 years of growth of at least 25% of the on-site open  
787 space. Method 1.
- 788
- 789 (i) Vegetated Area: Installation of plantings in a minimum of 12 inches of soil  
790 covering at least 5,000 square feet of previously impervious surfaces. This does  
791 not include vegetated roofs. Method 1.
- 792
- 793 (j) Vegetated Roof: Provision of a vegetated roof with a soil depth of at least 4  
794 inches covering at least 33% of a building's roof, excluding space for mechanical  
795 equipment. Method 1.

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**59-C-15.9. Existing Approvals.**

- (a) One or more lawfully existing buildings or structures and the uses therein, which predate the applicable sectional map amendment, are conforming structures or uses, and may be continued, renovated, repaired, or reconstructed to the same size and configuration, or enlarged up to a total of 10 percent above the total existing floor areas of all buildings and structures on site or 30,000 square feet, whichever is less, and does not require a site plan. Enlargements in excess of the limitations in this subsection will require compliance with the full provisions of this Division.
- (b) A project that received an approved development plan under Division 59-D-1 or schematic development plan under Division 59-H-2 before the enactment of the CR zones may proceed under the binding elements of the development plan and will thereafter be treated as a lawfully existing building and may be renovated or reconstructed under Subsection (a) above. Such development plans or schematic development plans may be amended as allowed under Division 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any incremental increase in the total floor area beyond that allowed by Subsection (a) above or any incremental increase in building height beyond 15 feet requires, with respect to the incremental increase only, full compliance with the provisions of this Division.
- (c) At the option of the owner, any portion of a project subject to an approved development plan or schematic development plan described in Subsection (b) above may be developed pursuant to the provisions of this Division. The remainder of that project continues to be subject to the approved development plan or schematic development plan, pursuant to Subsections (a) and (b) above.
- (d) A project which has had a preliminary or site plan approved before the applicable sectional map amendment may be built or altered at any time, subject to either the full provisions of the previous zone or this division, at the option of the owner. If built under the previous approval, it will be treated as a lawfully existing building and may be renovated or reconstructed under Subsection (a) above.

831 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of  
832 Council adoption.

833

834 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council