

Montgomery County Zoning Provisions

In most of the County’s commercial and industrial zones, there is no public use space requirement. There is instead a green area requirement, which is essentially the same as the City’s Open Area provision – the space does not have to be publicly accessible.

Below is a list of County Zones matched against the City’s closest comparable mixed-use zones (noted in parentheses), with the green area requirement noted for each:

County Zone w/FAR	City Equivalent Zone	County Green Area Requirement (%)
C-T-FAR-0.5	MXT	10
C-1 – n/a	MXC	10
C-2 – FAR-1.5	MXNC; MXCD	10
C-4 – FAR-0.75	MXB	10
R&D – FAR-0.3	MXE	30

In the case of the County’s Central Business District Zones, there is a public use space requirement. The CBD Zones have a standard method and an optional method that allows a doubling of the base density. The standard method has a 10% public use space requirement; the optional method requires 20%. There is some degree of flexibility in how this requirement may be met. As previously noted, the County has also established a fee in lieu process, but has not enacted it. The comparable mixed-use zone in the City is the MXTD Zone. Following are the definitions for green area, public facilities and amenities, and public use space for Montgomery County:

Montgomery County Definitions

Green area: An area of land associated with and located on the same tract of land as a major building or group of buildings, or a prescribed portion of the land area encompassed by a development plan, diagrammatic plan or site plan, to which it provides light and air, or scenic, recreational or similar amenities. This space must generally be available for entry and use by the occupants of the building or area involved, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features or screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Green area may include but is not limited to lawns, decorative plantings, sidewalks and walkways, active and passive recreational areas including children's playgrounds, public plazas, fountains, swimming pools, wooded areas, and watercourses. Green area does not include parking lots or vehicular surfaces, accessory buildings other than swimming pools, or areas of open space so located, small, or circumscribed by buildings, parking or drainage areas as to have no substantial value for the purposes stated in this paragraph.

Public facilities and amenities: Those facilities and amenities of a type and scale necessary to provide an appropriate environment or to satisfy public needs resulting from the development of a particular project. Facilities and amenities may include, but are not limited to:

- (a) green area or open space which exceeds the minimum required, with appropriate landscaping and pedestrian circulation;
- (b) streetscaping that includes elements such as plantings, special pavers, bus shelters, benches, and decorative lighting;
- (c) public space designed for performances, events, vending, or recreation;
- (d) new or improved pedestrian walkways, tunnels or bridges;
- (e) features that improve pedestrian access to transit stations;
- (f) dedicated spaces open to the public such as museums, art galleries, cultural arts centers, community rooms, recreation areas;
- (g) day care for children or senior adults and persons with disabilities; and
- (h) public art.

Public facilities and amenities may be recommended or identified in an approved and adopted master or sector plan. Public amenities do not include road improvements or other capital projects that are required to provide adequate facilities to serve the property.

Public use space: Space devoted to public enjoyment, such as, but not limited to, green areas, gardens, plazas, walks, pathways, promenades, arcades, urban parks, town squares, public plazas with elements such as water features, and passive and active recreational areas including outdoor recreation areas for a child day care facility. Public use space may also consist of space and/or amenities recommended by an approved urban renewal plan. Public use space must not include parking or maneuvering areas for vehicles. Except for an outdoor recreation area for a child day care facility, public use space must be easily and readily accessible to the public and be identified by a sign placed in public view. If public pedestrian walkways are recommended in an approved and adopted master plan or sector plan, it may be counted as public use space.

Proposed County CR (Commercial/Residential) Zone

Montgomery County is now considering a text amendment to create a new type of mixed-use zone, which is intended to be utilized in areas of the County outside the central business districts (CBD's) but offer similar types of development densities and options. The new zone could only be applied by the County through the sectional map amendment process and only where recommended in the relevant master plan.

As drafted, the CR Zone is very complex, involving both standard method development with limited floor area ratios (FAR's) and building heights. For the purposes of this

discussion, the focus will be on the public use space recommendations in the zone. The draft proposes a minimum public use space requirement of 10 percent of the net tract area for any standard method project. Under the optional method, the public use space requirement is set within a range, depending on the size of the property and the number of street frontages existing or proposed for the site. See the chart below:

Minimum Required Public Use Space (% of net lot area)				
Acres (Gross)	Number of Existing and Planned Right-of-Way Frontages			
	1	2	3	4+
<1/2	0	0	4%	6%
1/2 - 1.00	0	4%	6%	8%
1.01 - 3.00	4%	6%	8%	10%
3.01 - 6.00	6%	8%	10%	10%
6.01+	8%	10%	10%	10%

The proposed CR Zone recommends these additional standards and requirements for the public use space:

Public use space must:

1. be calculated on the net lot area of the site;
2. be rounded to the next highest 100 square feet;
3. be easily and readily accessible to the public;
4. be placed under a public access easement in perpetuity; and
5. contain amenities such as seating options, shade, landscaping, or other similar public benefits.

Instead of providing on-site public use space, for any site of 3 acres or less, a development may propose the following alternatives, subject to Planning Board approval:

1. public use space improvements to an area equal in size within ¼ mile of the subject site; or
2. a payment in part or in full to the Public Amenity Fund, equal to the average cost of required site improvements, added to the current square foot market value of the area required as public use space.

Finally, the proposed zone would also require any project containing 20 or more dwelling units to provide amenity space for the residents in the amount of 20 square feet per dwelling for indoor space (community room, fitness room, or multi-purpose room) up to 5,000 square feet, and 20 square feet per dwelling of passive or active outdoor recreational space, at least 400 feet of which must be directly accessible from the indoor amenity space.