

# HOUSE BILL 628

L5, L3, L2

5lr0447

---

By: **Montgomery County Delegation and Prince George's County Delegation**

Introduced and read first time: February 12, 2015

Assigned to: Environment and Transportation

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Municipal Zoning Authority**

3 **MC/PG 111–15**

4 FOR the purpose of exempting the exercise of certain powers by a municipal corporation  
5 from a prohibition against the exercise of any powers relating to planning,  
6 subdivision control, or zoning by a municipal corporation in Prince George's County  
7 in the Maryland–Washington Regional District; exempting the exercise of certain  
8 powers by a municipal corporation from a provision of law limiting the exercise of  
9 certain powers to the Maryland–National Capital Park and Planning Commission;  
10 authorizing a municipal corporation in Prince George's County to enact a  
11 comprehensive local law regulating fences in the municipal corporation; establishing  
12 that a certain local law regulating fences in a municipal corporation may be less  
13 restrictive than certain local and zoning laws; repealing a provision of law  
14 authorizing the Prince George's County Council, sitting as the district council, to  
15 revoke a certain delegation of site plan approval authority to the Prince George's  
16 County Planning Board only for a certain purpose; authorizing the governing body  
17 of a municipal corporation in Prince George's County in the regional district to  
18 exercise certain powers of the district council and the county planning board relating  
19 to the zoning of land in the municipal corporation; requiring a party of record to  
20 appeal a certain municipal action to the district council for review before exercising  
21 a certain right to judicial review; making conforming changes; and generally relating  
22 to the zoning authority of municipal corporations in Prince George's County.

23 BY repealing and reenacting, with amendments,

24 Article – Land Use

25 Section 20–709, 22–120, 22–202, 22–203, and 25–210; and 25–301 and 25–302 to be  
26 under the amended subtitle “Subtitle 3. Municipal Zoning Authority”

27 Annotated Code of Maryland

28 (2012 Volume and 2014 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Land Use**

4 20–709.

5 **[A] EXCEPT AS PROVIDED IN §§ 22–203, 25–301, AND 25–303 OF THIS**  
6 **ARTICLE, A municipal corporation in Prince George’s County that is in the regional district**  
7 **may not exercise any powers relating to planning, subdivision control, or zoning [not**  
8 **granted to the municipal corporation by the district council under § 25–303 of this article].**

9 22–120.

10 **[Within] EXCEPT AS PROVIDED IN § 25–301 OF THIS ARTICLE, WITHIN the**  
11 **regional district, any power granted to a planning commission or board of appeals under**  
12 **Division I of this article shall be construed as vested exclusively in and may be exercised**  
13 **only by:**

14 (1) the Commission; or

15 (2) the board of appeals created or authorized by this title.

16 22–202.

17 (a) This section applies to any zoning law that imposes a more restrictive height  
18 limitation, lesser percentage of lot occupancy, wider or larger courts, deeper yards, or other  
19 more restrictive limitations than those provided by State, county, municipal, or other local  
20 regulations.

21 (b) **[A] EXCEPT AS PROVIDED IN § 22–203(D) OF THIS ARTICLE, A zoning law**  
22 **described in subsection (a) of this section shall prevail in the area where it is imposed over**  
23 **the limitations provided by State, county, municipal, or other local regulations.**

24 22–203.

25 (a) A municipal corporation in Prince George’s County shall have concurrent  
26 authority in its boundaries with the county Department of Environmental Resources,  
27 Licenses and Inspections Group, to seek compliance with zoning requirements to the extent  
28 that the requirements pertain to signs.

29 (b) A municipal corporation in Prince George’s County may enact local laws  
30 regulating fences erected in front of the building setback lines on all residential property  
31 located in the municipal corporation.

1 (c) A MUNICIPAL CORPORATION IN PRINCE GEORGE'S COUNTY MAY ENACT  
2 A COMPREHENSIVE LOCAL LAW REGULATING FENCES IN THE MUNICIPAL  
3 CORPORATION.

4 (D) (1) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
5 SUBSECTION, ANY local law enacted under this section may not be less restrictive than  
6 any local law in effect or subsequently enacted by the county council.

7 (2) A LOCAL LAW ENACTED UNDER SUBSECTION (C) OF THIS SECTION  
8 MAY BE LESS RESTRICTIVE THAN:

9 (I) A LOCAL LAW IN EFFECT OR SUBSEQUENTLY ENACTED BY  
10 THE COUNTY COUNCIL; OR

11 (II) A ZONING LAW IN EFFECT OR SUBSEQUENTLY ADOPTED BY  
12 THE DISTRICT COUNCIL.

13 25–210.

14 (a) (1) Subject to subsection (b) of this section, the district council may review  
15 a final decision of the county planning board to approve or disapprove a detailed site plan.

16 (2) A party of record may appeal to the district council a final decision by  
17 the county planning board to approve or disapprove a site plan.

18 (b) The district council may only decide whether to review the final approval or  
19 disapproval of a detailed site plan under this section within 30 days after the date the final  
20 approval or disapproval was issued.

21 (c) (1) Except as provided in paragraph (2) of this subsection, if the district  
22 council decides to review an approval or a disapproval under this section, the district  
23 council shall hold a hearing within 70 days after the district council issues the decision to  
24 conduct a review.

25 (2) The district council may decide to extend the time to hold a hearing  
26 under paragraph (1) of this subsection for up to 45 additional days on its own motion or on  
27 request of the applicant.

28 (d) The district council shall issue a final decision within 60 days after the date  
29 of the hearing.

30 [(e) The district council may revoke a delegation of site plan approval authority to  
31 the county planning board only for the purpose of delegating approval authority over  
32 detailed site plans to the governing body of a municipal corporation in the regional district  
33 under § 25–301(c)(2)(ix) of this title.]

## 1 Subtitle 3. Municipal [Delegation] ZONING AUTHORITY.

2 25–301.

3 (a) Except as otherwise provided in this section, [the district council may provide  
4 that] the governing body of a municipal corporation may exercise the powers of the district  
5 council **AND THE COUNTY PLANNING BOARD** as specified in this subtitle.

6 (b) When exercising authority [delegated] under subsection (c) or (d) of this  
7 section, the governing body of a municipal corporation:

8 (1) shall be subject to the substantive and procedural requirements and  
9 standards established by the district council; and

10 (2) may not impose:

11 (i) [with respect to general delegation] under subsection (c) of this  
12 section, a different requirement or standard than the requirements or standards that would  
13 apply if [the district council had not delegated its authority to] the municipal corporation  
14 **HAD NOT EXERCISED THE POWERS AUTHORIZED UNDER THIS SECTION**; or

15 (ii) [with respect to delegation] in a revitalization overlay zone  
16 under subsection (d) of this section, a stricter requirement or standard than the  
17 requirements or standards that would apply if [the district council had not delegated its  
18 authority to] the municipal corporation **HAD NOT EXERCISED THE POWERS**  
19 **AUTHORIZED UNDER THIS SECTION**.

20 (c) (1) This subsection applies to land in a municipal corporation in the  
21 regional district.

22 (2) The [district council may delegate to the] governing body of a municipal  
23 corporation **MAY EXERCISE** the powers of the district council **OR THE COUNTY PLANNING**  
24 **BOARD, AS APPROPRIATE**, regarding:

25 (i) design standards;

26 (ii) parking and loading standards;

27 (iii) sign design standards;

28 (iv) lot size variances and setback and similar requirements;

29 (v) landscaping requirements;

30 (vi) certification, revocation, and revision of nonconforming uses;

- 1 (vii) minor changes to approved special exceptions;
- 2 (viii) vacation of municipal rights-of-way; [and]
- 3 (ix) [except as provided in paragraph (3) of this subsection, all]
- 4 detailed site plans;

5 **(X) SPECIFIC DESIGN PLANS; AND**

6 **(XI) CONCEPTUAL SITE PLANS.**

7 [(3) The authority to delegate with regard to detailed site plans does not

8 apply to detailed site plans:

9 (i) for a zone that requires detailed site plan approval by the district

10 council;

11 (ii) that are required as a condition of approval of a zoning map

12 amendment or a preliminary plan of subdivision;

13 (iii) for which the approval of a conceptual site plan or a preliminary

14 plan of cluster subdivision is required; or

15 (iv) that are required for designated parcels as a specific condition of

16 a sectional map amendment.]

17 (d) (1) This subsection applies to a revitalization overlay zone created by the

18 district council.

19 (2) For any portion of a revitalization overlay zone in a municipal

20 corporation, [the district council may delegate to] the governing body of a municipal

21 corporation **MAY EXERCISE** the powers of the district council **OR THE COUNTY PLANNING**

22 **BOARD, AS APPROPRIATE,** regarding:

23 (i) design standards;

24 (ii) parking and loading standards;

25 (iii) sign design standards;

26 (iv) lot size variances and setback and similar requirements; [and]

27 (v) landscaping requirements;

1                   **(VI) CERTIFICATION, REVOCATION, AND REVISION OF**  
2 **NONCONFORMING USES;**

3                   **(VII) MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS;**

4                   **(VIII) VACATION OF MUNICIPAL RIGHTS-OF-WAY;**

5                   **(IX) DETAILED SITE PLANS;**

6                   **(X) SPECIFIC DESIGN PLANS; AND**

7                   **(XI) CONCEPTUAL SITE PLANS.**

8                   (3) The [delegation] **EXERCISE** of powers under paragraph (2) of this  
9 subsection may not impede a development that meets the requirements the district council  
10 sets for the revitalization overlay zone.

11                   (4) For any portion of a revitalization overlay zone not within a municipal  
12 corporation, the district council may authorize the county planning board to approve:

13                   (i) departures from parking and loading standards;

14                   (ii) departures from design standards; and

15                   (iii) any variance from the zoning laws.

16 25–302.

17                   (a) (1) Except as provided in subsection (b) of this section, any party of record  
18 to an action of the governing body of a municipal corporation exercised under § 25–301(c)  
19 of this subtitle shall have the same right to judicial review by the circuit court as the party  
20 would have if the district council had taken the action.

21                   (2) Any party to an action of the governing body of a municipal corporation  
22 or the county planning board exercised under § 25–301(d) of this subtitle shall have the  
23 same right to judicial review by the circuit court as the party would have if the district  
24 council had taken the action.

25                   (b) (1) With respect to an action taken [under the general delegation  
26 authorized] under § 25–301(c) of this subtitle, before exercising the right to judicial review  
27 under subsection (a)(1) of this section, a party of record shall appeal the action of the  
28 governing body of the municipal corporation to the district council for review on the record  
29 if the action concerns:

30                   (i) certification, revocation, or revision of nonconforming uses; [or]

1 (ii) detailed site plans;

2 (III) SPECIFIC DESIGN PLANS; OR

3 (IV) CONCEPTUAL SITE PLANS.

4 (2) On appeal, the district council may:

5 (i) approve the action of the municipal corporation by a majority  
6 vote of its members; or

7 (ii) approve the action of the municipal corporation with conditions  
8 or overrule the action by a vote of at least six members.

9 (3) (i) A person aggrieved by the action of the district council under this  
10 subsection may request judicial review of the action by the circuit court.

11 (ii) The municipal corporation whose action is affected by the action  
12 of the district council shall be considered an aggrieved person.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2015.