
By: Prince George's County and Montgomery County Delegations

Introduced and read first time: February 1, 1996
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 15, 1996

CHAPTER ____

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Montgomery County -**
3 **Zoning Regulations**
4 **PG/MC 8-96**

5 FOR the purpose of providing that, in Montgomery County, the District Council in its
6 zoning regulations may require that a specified minimum number of votes is
7 required for the board of appeals to adopt certain zoning resolutions relating to
8 special exceptions; authorizing the Council to enact certain voting requirements for
9 certain uses; requiring the District Council to appoint a task force to evaluate
10 certain special exceptions in certain provisions of the Montgomery County Code;
11 providing for a delayed effective date for certain provisions of this Act; and making
12 stylistic changes.

13 BY repealing and reenacting, with amendments,
14 Article 28 - Maryland-National Capital Park and Planning Commission
15 Section 8-110
16 Annotated Code of Maryland
17 (1993 Replacement Volume and 1995 Supplement)

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

20 **Article 28 - Maryland-National Capital Park and Planning Commission**

21 8-110.

22 (a) (1) A district council in either county, in its zoning regulations, may provide
23 that the board of zoning appeals, the district council, or an administrative office or agency

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1 designated by the district council, in appropriate cases and subject to appropriate
2 principles, standards, rules, conditions, and safeguards set forth in the regulations, may
3 either grant or deny, upon conditions as may be deemed necessary to carry out the
4 purposes of this article, special exceptions and variances to the provisions of the zoning
5 regulations in harmony with their general purposes and intent.

6 (2) (I) IN MONTGOMERY COUNTY, THE DISTRICT COUNCIL IN ITS
7 ZONING REGULATIONS MAY PROVIDE THAT THE AFFIRMATIVE VOTE OF:

8 1. AT LEAST FOUR MEMBERS OF THE BOARD OF APPEALS
9 ARE REQUIRED TO ADOPT A RESOLUTION THAT GRANTS, REVOKES, SUSPENDS,
10 AMENDS, EXTENDS THE TIME IN WHICH TO IMPLEMENT, OR MODIFIES A SPECIAL
11 EXCEPTION; AND

12 2. A MAJORITY OF THE BOARD OF APPEALS IS REQUIRED
13 TO ADOPT A PROCEDURAL MOTION REGARDING A SPECIAL EXCEPTION
14 APPLICATION.

15 (II) IN EXERCISING ITS AUTHORITY UNDER THIS PARAGRAPH, THE
16 DISTRICT COUNCIL MAY ENACT, FOR ANY ZONE, DIFFERENT VOTING
17 REQUIREMENTS FOR DIFFERENT USES.

18 (3) In Prince George's County, the district council shall provide for the
19 appeal of decisions of the zoning hearing examiner in special exception and variance cases
20 to the district council.

21 (4) The decisions of the administrative office or agency in Montgomery
22 County shall be subject to an appeal to either the board of appeals or other administrative
23 body as may be designated by the district council. In either county, the appeal shall follow
24 that procedure which may from time to time be determined by the district council.

25 (5) The district council IN EITHER COUNTY also may authorize the board of
26 zoning appeals to interpret the zoning maps or pass upon disputed questions of lot lines
27 or district boundary lines or similar questions as they arise in the administration of the
28 regulations.

29 (b) In Montgomery County, notwithstanding any provision in Article 25A, § 5(U),
30 of the Annotated Code to the contrary, a decision by the county board of appeals on
31 applications for zoning variations or exceptions may be appealed within 30 days by any
32 person, municipality, corporation, or association, whether or not incorporated, which has
33 appeared at the hearing in person, by attorney, or in writing, to the circuit court for the
34 county, which may affirm or reverse the decision appealed from or remand it to the board
35 for further consideration for any reason, or dismiss the appeal as provided by law. Any
36 party to the proceedings in the circuit court may appeal from such decision to the Court
37 of Special Appeals. The review proceedings provided by this section are exclusive.

38 (c) (1) In Prince George's County, prior to any hearing by a zoning hearing
39 examiner and the district council concerning a request for a special exception for the
40 mining of sand or gravel, a report shall be prepared in accordance with this subsection.

41 (2) Any report required under paragraph (1) of this subsection shall:

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1 (i) Be prepared by the Commission;

2 (ii) Comprehensively evaluate the request by analyzing the impact of
3 the proposed mining activities on the surrounding area, considering only the following
4 factors:

5 1. Noise;

6 2. Watershed and water quality;

7 3. Airshed and air quality;

8 4. Traffic and traffic safety; and

9 5. Any other environmental factors relating to the health,
10 safety, and welfare of the residents in the affected area; and

11 (iii) Be paid for by the applicant through a fee for the services
12 performed by the Commission, not to exceed \$8,000, in addition to the initial filing fee.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the District Council shall
14 appoint a task force to review and evaluate those special exceptions in Chapter 59 of the
15 Montgomery County Code (Zoning Ordinance of Montgomery County) that may warrant
16 the applicability of supermajority voting requirements. The task force shall consider
17 issues associated with the various special exception uses, including those relating to
18 economic development and retention, neighborhood impacts (such as parking, buffers,
19 traffic, density of development, and hours of operation), and other land use or relevant
20 factors determined by the District Council. In appointing members of the task force, the
21 District Council shall strive for geographic representation from throughout Montgomery
22 County and provide a balance of representation from both the business community and
23 civic associations. The District Council is encouraged to include on the task force
24 additional members of the public who are not affiliated with either business or civic
25 organizations. The District Council shall determine the manner and time by which the
26 task force reports and makes its recommendations to the Council. The District Council
27 shall report on the implementation of this Act to the Montgomery County Senate and
28 House Delegations on or before May 31, 1997.

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
30 take effect June 1, 1997.

31 SECTION 2- 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
32 this Act, this Act shall take effect June 1, 1996.

