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

Introduced and read first time: February 7, 2005

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Maryland-National Capital Park and Planning**  
3 **Commission - Amendments to Residential Zoning Regulations - Prohibitions**  
4 **MC/PG 121-05**

5 FOR the purpose of prohibiting the district council of Prince George's County from  
6 approving a text amendment for a residential zone that could result in an  
7 increase in the density allowed by law for the zone; and generally relating to  
8 prohibitions against certain amendments to residential zoning regulations in  
9 Prince George's County.

10 BY repealing and reenacting, with amendments,  
11 Article 28 - Maryland-National Capital Park and Planning Commission  
12 Section 8-104  
13 Annotated Code of Maryland  
14 (2003 Replacement Volume and 2004 Supplement)

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

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

18 8-104.

19 (a) (1) After duly advertised public hearing each district council from time  
20 to time may amend its regulations or any regulation, including the maps or any map,  
21 in accordance with procedures established in the respective zoning ordinances. The  
22 procedures and ordinances may include, but not be limited to: (i) procedures limiting  
23 the times during which amendments may be adopted; (ii) provisions for hearings and  
24 preliminary determinations by an examiner, board or other agency; (iii) procedures  
25 for quorums, number of votes required to enact amendments and variations or  
26 increases therein based upon such factors as master plans, recommendations of the  
27 hearing examiner, planning board, municipality, or other body, and petitions of  
28 abutting property owners, and the evidentiary value which may be accorded to any or

1 all of these; and (iv) procedures for hearing, notice, costs, and fees, amendment of  
2 applications, stenographic records, reverter, lapse, and reconsideration de novo of  
3 undeveloped zoning amendments. The existing provisions of the Regional District  
4 Law and of the ordinances enacted by the respective district councils relating to the  
5 foregoing matters shall remain in full force and effect unless or until specifically  
6 superseded or amended in accordance with the power and authority granted herein,  
7 but no such amendment may be made by a district council, in a year in which the  
8 council is elected, after the 31st day of October and until the newly elected council is  
9 duly qualified and has taken office.

10 (2) In Montgomery County all applications which seek a zoning  
11 classification, either euclidean or floating, other than that which is indicated to be  
12 appropriate or suitable in the text or on the land use map of an adopted master plan,  
13 approved by the district council, under the provisions of § 7-108(e) of this article,  
14 shall be granted only by the affirmative vote of 6 members of the district council. If  
15 the application for reclassification is recommended for approval by the Commission or  
16 if the application is for a zoning classification created after the approval of the master  
17 plan by the council, then an affirmative vote of 5 members of the district council is  
18 required to grant the application or applications. In all other cases, an application  
19 may not be granted except by affirmative vote of at least 5 members of the district  
20 council.

21 (3) In Prince George's County the district council shall require:

22 (i) A two-thirds vote of all members of the district council to  
23 approve a zoning map amendment if the zoning map amendment is contrary to an  
24 approved master plan;

25 (ii) A two-thirds vote of all members of the district council to  
26 approve a zoning map amendment or a special exception if the zoning map  
27 amendment or special exception is contrary to the recommendation of a municipal  
28 corporation that has any portion of the land subject to the zoning map amendment or  
29 special exception within the municipal boundaries; and

30 (iii) A two-thirds vote of all members of the district council and a  
31 four-fifths vote of all members of the planning board to approve an optional parking  
32 plan if the optional parking plan is contrary to the recommendation of a municipal  
33 corporation that has any portion of the land subject to the optional parking plan  
34 within the municipal boundaries.

35 (b) Before any map amendment is passed it shall be submitted to the  
36 appropriate planning board and to the governing body of the incorporated  
37 municipality in which the land is located, for approval, disapproval, or suggestions.

38 Each district council may provide by ordinance procedures to be followed by the  
39 planning boards and municipalities in considering zoning map amendments to the  
40 extent that these provisions are not in conflict with the provisions of this article.

41 (c) Before the district council of the Maryland-Washington Regional District  
42 in Montgomery County and Prince George's County may amend the zoning ordinance

1 of either county by changing the zoning classification of property within any  
2 incorporated municipality, the application for the change shall be referred to the  
3 governing body of the incorporated municipality for its recommendation, allowing the  
4 governing body 60 days in which to make its recommendation. However, a two-thirds  
5 majority of all the members of the district council is required before the council may  
6 change the zoning classification of property within any incorporated municipality  
7 contrary to the recommendation of the municipality. For purposes of this section the  
8 term "incorporated municipality" includes any city, town, village, or special taxing  
9 area which has an elected local governing body and performs general municipal  
10 functions.

11 (d) (1) In this subsection, "custodian" means the custodian of the records of  
12 a zoning map amendment case in Prince George's County.

13 (2) Before the Commission sends a zoning map amendment case to the  
14 district council in Prince George's County, the Commission is the custodian of the  
15 records of the case. After the Commission sends a zoning map amendment case to the  
16 district council in Prince George's County, the district council is the custodian of the  
17 records of the case.

18 (3) (i) Correspondence or documents submitted to a custodian shall be  
19 received only in accordance with any applicable statute, ordinance, rule of evidence,  
20 or case law.

21 (ii) All applications for zoning map amendments and all official  
22 correspondence and records relating thereto, prepared or received by the custodian,  
23 shall be made available to the public during regular business hours of the custodian,  
24 but the custodian may publish rules to prevent this access from unreasonably  
25 disrupting its official business. However, under any circumstances, copies of technical  
26 staff reports shall be available at the office of the custodian for the public.

27 (4) (i) In Prince George's County, a person who personally appears at  
28 the office of the custodian may obtain, without charge, a copy of a public document if  
29 the document:

30 1. Is of letter or legal size; and

31 2. Pertains to a specific zoning case, including zoning  
32 applications and justification statements.

33 (ii) The purpose of subparagraph (i) is to supplement any present  
34 laws, rules, or policies that the custodian follows when making public documents  
35 available.

36 (e) (1) In approving any local map amendment after July 1, 1968, under this  
37 section, the district council for Prince George's County may give consideration to and  
38 adopt whatever reasonable requirements, safeguards, and conditions as may in its  
39 opinion be necessary either to protect surrounding properties from adverse effects  
40 which might accrue from the zoning amendment, or which would further enhance the  
41 coordinated, harmonious, and systematic development of the regional district. A

1 statement of these conditions shall be included in the resolution granting the  
2 amendment and shall become a part thereof, and remain in effect for so long as the  
3 property remains zoned in accordance with the resolution and the applicable zoning  
4 classification requested. No building permit, use permit, or subdivision plat may be  
5 issued or approved for the property except in accordance with conditions set forth in  
6 the resolution. The district council may adopt ordinances and regulations necessary to  
7 provide adequate notice, public hearings, and enforcement procedures for the  
8 implementation of this section.

9           (2)       An applicant has 90 days from date of approval to accept or reject the  
10 land use classification conditionally approved. Should the applicant expressly reject  
11 the amendment as conditionally approved within the 90-day period, the zoning  
12 classification shall revert to its prior status.

13           (3)       Notwithstanding any other provision of this article no requirements,  
14 safeguards or conditions may be imposed by the district council which would require  
15 the dedication of land for public use except for roads, streets, alleys, and easements.

16           (4)       If any resolution, or any part or condition thereof, passed by the  
17 district council pursuant to this subsection is declared illegal, unconstitutional, or in  
18 any way invalid by any court of competent jurisdiction, the zoning category applicable  
19 to the property rezoned by the resolution shall revert back to the category applicable  
20 prior to the passage of the resolution, and the resolution shall be null and void and of  
21 no effect whatsoever.

22           (f)       In Prince George's County, municipal corporations, as defined in Article  
23 23A, § 9(a), shall have concurrent authority within their boundaries with the  
24 Department of Inspections and Permits of Prince George's County to seek compliance  
25 with zoning requirements insofar as these requirements pertain to signs. Such  
26 municipalities may also enact legislation regulating fences erected in front of the  
27 building setback lines on all residential property located within the municipality.  
28 Enacted ordinances may not be less restrictive than any ordinance in effect or  
29 thereafter enacted by the County Council of Prince George's County.

30           (G)       IN PRINCE GEORGE'S COUNTY, THE DISTRICT COUNCIL MAY NOT APPROVE  
31 A TEXT AMENDMENT FOR A RESIDENTIAL ZONE THAT COULD RESULT IN AN  
32 INCREASE IN THE DENSITY ALLOWED BY LAW FOR THE ZONE.

33       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2005.