

HOUSE BILL 938

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CF SB 564

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

Introduced and read first time: February 13, 2015

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Maryland–Washington Regional District – Fairness in**
3 **Zoning**

4 **MC/PG 112–15**

5 FOR the purpose of providing that, in Prince George's County, the planning board's
6 authority is not exclusive and may be subject to review by the district council under
7 certain circumstances; providing that the district council is not authorized to review
8 certain matters beyond its jurisdiction as provided in a certain article; authorizing
9 the district council in Prince George's County by local law to adopt and amend zoning
10 law procedures for zoning decisions by the planning board and the district council;
11 providing that within the regional district in Prince George's County, certain zoning
12 powers granted to a planning commission or board of appeals under certain
13 provisions shall be construed as vested exclusively in and may be exercised only by
14 the district council; requiring that, in Prince George's County, the zoning hearing
15 examiner shall issue a certain decision not less than a certain time after the date of
16 a certain hearing; providing that, in Prince George's County, a person may file a
17 request for judicial review of a decision of a board of appeals to the circuit court only
18 under certain circumstances; providing that, in Prince George's County, when the
19 district council is hearing a zoning matter that has been appealed from a zoning
20 hearing examiner, the district council may remand the zoning matter back to the
21 zoning hearing examiner only one time and is required to specify that the zoning
22 hearing examiner take action within a certain time frame after the matter is
23 remanded; and generally relating to zoning and planning powers in the
24 Maryland–Washington Regional District in Prince George's County.

25 BY repealing and reenacting, with amendments,
26 Article – Land Use
27 Section 20–202, 22–104, 22–120, and 22–206
28 Annotated Code of Maryland
29 (2012 Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Land Use
 3 Section 25–212 and 25–213
 4 Annotated Code of Maryland
 5 (2012 Volume and 2014 Supplement)

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

8 **Article – Land Use**

9 20–202.

10 (a) (1) **(I)** Subject to **SUBPARAGRAPH (II) OF THIS PARAGRAPH AND**
 11 paragraph (2) of this subsection, a county planning board:

12 [(i)] **1.** is responsible for planning, subdivision, and zoning
 13 functions that are primarily local in scope; and

14 [(ii)] **2.** shall exercise, within the county planning board’s
 15 jurisdiction, the following powers:

16 [1.] **A.** planning;

17 [2.] **B.** zoning;

18 [3.] **C.** subdivision;

19 [4.] **D.** assignment of street names and house numbers;

20 and

21 [5.] **E.** any related matter.

22 **(II) 1. IN PRINCE GEORGE’S COUNTY:**

23 **A. THE AUTHORITY OF THE COUNTY PLANNING BOARD**
 24 **OVER ZONING AND SUBDIVISION MATTERS, BOTH LOCAL AND GENERAL, IS NOT**
 25 **EXCLUSIVE AND SHALL BE SUBJECT TO REVIEW BY THE DISTRICT COUNCIL; BUT**

26 **B. ANY REVIEW IS LIMITED TO THE MATTER THAT IS**
 27 **BROUGHT BEFORE THE DISTRICT COUNCIL.**

1 **2. NOTHING IN THIS SUBPARAGRAPH AUTHORIZES THE**
2 **DISTRICT COUNCIL TO REVIEW MATTERS THAT ARE OTHERWISE BEYOND ITS**
3 **JURISDICTION AS PROVIDED IN THIS ARTICLE.**

4 (2) The functions under paragraph (1) of this subsection do not include the
5 regional planning functions of the Commission relating to or affecting the regional district
6 as a planning unit.

7 (b) (1) A county planning board has exclusive jurisdiction over:

8 (i) local functions, including:

9 1. the administration of subdivision regulations;

10 2. the preparation and adoption of recommendations to the
11 district council with respect to zoning map amendments; and

12 3. the assignment of street names and house numbers in the
13 regional district; and

14 (ii) mandatory referrals made in accordance with Subtitle 3, Part I
15 of this title by the county planning board's respective county government or any unit of the
16 county government.

17 (2) The Montgomery County Planning Board has exclusive jurisdiction
18 over a mandatory referral made in accordance with Subtitle 3, Part I of this title by the
19 County Board of Education, a municipal corporation or special taxing district, or a publicly
20 owned or privately owned public utility.

21 (c) (1) Subject to paragraph (2) of this subsection, the Montgomery County
22 Planning Board shall:

23 (i) review the annual capital budgets of the county and future
24 capital budget projections; and

25 (ii) submit recommendations to the county council.

26 (2) The county government shall have sole responsibility for the
27 preparation of the capital budgets and programs of public works.

28 (d) Each county planning board shall:

29 (1) meet from time to time with its respective county council; and

30 (2) perform surveys, studies, and other planning duties the county council
31 assigns to the county planning board.

1 22-104.

2 (a) The Montgomery County district council or the Prince George's County
3 district council, in accordance with the requirements of this division as to the portion of the
4 regional district located in the respective county, may:

5 (1) by local law adopt and amend the text of the zoning law for that county;
6 and

7 (2) by local law adopt and amend any map accompanying the text of the
8 zoning law for that county.

9 (b) **IN PRINCE GEORGE'S COUNTY, THE DISTRICT COUNCIL MAY BY LOCAL
10 LAW ADOPT AND AMEND ZONING LAW PROCEDURES FOR ZONING DECISIONS BY THE
11 PLANNING BOARD AND THE DISTRICT COUNCIL.**

12 (c) The local law may regulate:

13 (1) (i) the location, height, bulk, and size of each building or other
14 structure, and any unit in the building or structure;

15 (ii) building lines;

16 (iii) minimum frontage;

17 (iv) the depth and area of each lot; and

18 (v) the percentage of a lot that may be occupied;

19 (2) the size of lots, yards, courts, and other open spaces;

20 (3) the construction of temporary stands and structures;

21 (4) the density and distribution of population;

22 (5) the location and uses of buildings and structures and any units in those
23 buildings and structures for:

24 (i) trade;

25 (ii) industry;

26 (iii) residential purposes;

27 (iv) recreation;

28 (v) agriculture;

1 (vi) public activities; and

2 (vii) other purposes; and

3 (6) the uses of land, including surface, subsurface, and air rights for the
4 land, for building or for any of the purposes described in item (5) of this subsection.

5 **[(c)] (D)** The exercise of authority by a district council under this section is
6 limited by §§ 17–402 and 25–211 of this article.

7 22–120.

8 **(A)** Within the regional district **IN MONTGOMERY COUNTY**, any power granted
9 to a planning commission or board of appeals under Division I of this article shall be
10 construed as vested exclusively in and may be exercised only by:

11 (1) the Commission; or

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

13 **(B) WITHIN THE REGIONAL DISTRICT IN PRINCE GEORGE’S COUNTY, ANY**
14 **ZONING POWER GRANTED TO A PLANNING COMMISSION OR BOARD OF APPEALS**
15 **UNDER DIVISION I OF THIS ARTICLE SHALL BE CONSTRUED AS VESTED**
16 **EXCLUSIVELY IN AND MAY BE EXERCISED ONLY BY THE DISTRICT COUNCIL.**

17 22–206.

18 (a) A district council may amend its zoning laws, including any maps:

19 (1) in accordance with procedures established in its zoning laws; and

20 (2) after holding an advertised public hearing.

21 (b) The procedures and zoning laws may include:

22 (1) procedures limiting the times when amendments may be adopted;

23 (2) provisions for hearings and preliminary determinations by an
24 examiner, a board, or any other unit;

25 (3) procedures for quorums, number of votes required to enact
26 amendments, and variations or increases based on factors such as master plans,
27 recommendations of the hearing examiner, county planning board, municipal corporation,
28 governed special taxing district, or other body, and petitions of abutting property owners,
29 and the evidentiary value that may be accorded to any of these factors; and

1 (4) procedures for hearings, notice, costs, fees, amendment of applications,
2 recordings, reverter, lapse, and reconsideration de novo of undeveloped zoning
3 amendments.

4 (c) (1) In Prince George's County, the district council may provide for notice of
5 the public hearing on a proposed amendment to its zoning plan or zoning laws to be given
6 to the owners of properties, as they appear on the assessment rolls of the county, adjoining,
7 across the road from, on the same block as, or in the general vicinity of the property that
8 is the subject of the proposed amendment.

9 (2) A zoning law adopted under this subsection may require notice to be
10 given by mail or by posting the notice on or in the vicinity of the property involved in the
11 proposed amendment or both.

12 (d) **IN PRINCE GEORGE'S COUNTY, THE ZONING HEARING EXAMINER**
13 **SHALL ISSUE A DECISION ON A ZONING MATTER NOT MORE THAN 100 DAYS AFTER**
14 **THE DATE OF THE LAST HEARING HELD BY THE HEARING EXAMINER.**

15 (E) In a year in which a district council is elected, the district council may not
16 amend a zoning law from November 1 and until the newly elected district council has taken
17 office.

18 **25-212.**

19 **NOTWITHSTANDING ANY OTHER LAW, IN PRINCE GEORGE'S COUNTY A**
20 **PERSON MAY FILE A REQUEST FOR JUDICIAL REVIEW OF A DECISION OF A BOARD OF**
21 **APPEALS TO THE CIRCUIT COURT ONLY IF:**

22 (1) **THE PERSON IS A PARTY TO, OR DIRECTLY AFFECTED BY THE**
23 **DECISION OF THE BOARD OF APPEALS;**

24 (2) **THE PERSON RESIDES WITHIN ONE MILE OF THE PROPERTY THAT**
25 **IS THE SUBJECT OF THE DECISION; OR**

26 (3) **THE PERSON RESIDES IN THE MUNICIPAL CORPORATION WHERE**
27 **THE PROPERTY THAT IS THE SUBJECT OF THE DECISION IS LOCATED.**

28 **25-213.**

29 **IN PRINCE GEORGE'S COUNTY, WHEN THE DISTRICT COUNCIL IS HEARING A**
30 **ZONING MATTER THAT HAS BEEN APPEALED FROM A DECISION OF A ZONING**
31 **HEARING EXAMINER, THE DISTRICT COUNCIL:**

1 **(1) MAY REMAND THE ZONING MATTER BACK TO THE ZONING**
2 **HEARING EXAMINER ONLY ONE TIME; AND**

3 **(2) SHALL SPECIFY THAT THE ZONING HEARING EXAMINER TAKE**
4 **ACTION WITHIN 100 DAYS AFTER THE MATTER IS REMANDED.**

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