

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2023 Legislative Session

Bill No. CB-041-2023

Chapter No. _____

Proposed and Presented by Council Member Fisher

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Revocation of the Northern Gateway Business Improvement District

3 For the purpose of revoking the establishment of a business improvement district in the Northern
4 Gateway.

5 BY repealing:

6 SUBTITLE 10. FINANCE AND TAXATION.

7 Sections 10-339, 10, 340, 10-341, 10-342, 10-343

8 10, 344, 10-345, 10-346, 10-347

9 The Prince George's County Code

10 (2019 Edition; 2022 Supplement).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's
12 County, Maryland, that Sections 10-339, 10, 340, 10-341, 10-342, 10-343,
13 10-344, 10-345, 10-346 and 10-347 of the Prince George's County Code be and
14 the same are hereby repealed:

15 **SUBTITLE 10. FINANCE AND TAXATION.**

16 **[DIVISION 32. NORTHERN GATEWAY BUSINESS IMPROVEMENT DISTRICT.**

17 **Sec. 10-339. Definitions.**

18 (a) Board means the board of directors of the Northern Gateway Business Improvement
19 District corporation.

20 (b) Commercial tenant means a lessee or other lawful occupant, other than the owner, of
21 nonexempt property within the District.

1 (c) Condominium means property subject to a condominium regime as stated in §11-101
 2 of the Real Property Article of the Annotated Code of Maryland.

3 (d) Cooperative housing corporation means a corporation where each stockholder or
 4 member, by virtue of such ownership or membership, has a cooperative interest in the
 5 corporation as defined in §5-6B-01 of the Corporations and Associations Article of the
 6 Annotated Code of Maryland.

7 (e) Department means the Department of Transportation or another County department or
 8 office designated by the Executive to perform functions under this Chapter.

9 (f) District means the Northern Gateway Business Improvement District established under
 10 this Chapter and covering the geographic area of the County described in Section 10-336.

11 (g) District corporation means the Northern Gateway Business Improvement District, Inc.
 12 which was formed to operate the Northern Gateway Business Improvement District in
 13 accordance with this Chapter.

14 (h) Homeowners association means an incorporated or unincorporated association with the
 15 authority to enforce the provisions of a declaration imposing a mandatory fee for the benefit of
 16 some or all of the lots in a development as defined in §11B-101 of the Real Property Article.

17 (i) Members of the district means the owners of nonexempt property in the District.

18 (j) Nonexempt property means all real property in the District that is not exempt from
 19 paying real property taxes except a:

20 (1) condominium unit or cooperative housing corporation unit that exists on or before
 21 the date this law takes effect;

22 (2) homeowner’s association; and

23 (3) residential property with fewer than 4 dwelling units.

24 **Sec. 10-340. Northern Gateway Business Improvement District - Established.**

25 (a) Findings. The Council, after receiving an application to establish a district corporation
 26 and conducting a public hearing on the application, as required by §§12-608 and 12-609 of the
 27 Economic Development Article of the Annotated Code of Maryland, finds that a business
 28 improvement district would promote the general welfare of the residents, employers, employees,
 29 property owners, commercial tenants, consumers and the general public within the Northern
 30 Gateway.

31 (b) Established. The Northern Gateway Business Improvement District is established pursuant

1 to §§12-601 to 12-612 of the Economic Development Article of the Annotated Code of
 2 Maryland.

3 (c) Boundary. The Northern Gateway Business Improvement District shall be composed of
 4 the geographic area generally bounded by the Prince George’s County boundary line with
 5 Montgomery County to the northwest; the municipal boundaries of the City of Hyattsville and
 6 the City of Mount Rainier to the south; the Prince George’s County boundary line with the
 7 District of Columbia and the City of Takoma Park in Montgomery County to the west; Adelphi
 8 Road to the east; including the new Buck Lodge area in District 2.

9 **Sec. 10-341. District Corporation.**

10 (a) Establishment. The owners of nonexempt property in the District established a district
 11 corporation called the Northern Gateway Business Improvement District, Inc., and applied to the
 12 County to manage the District. The application included:

13 (1) a statement setting forth:

14 (A) the proposed name and address of the district corporation; and

15 (B) the street address of each owner of nonexempt property within the District;

16 (2) a statement expressing the intent to establish a district corporation that is signed

17 by:

18 (A) owners of at least 51% interest in the assessed value of the nonexempt
 19 property and, subject to subsection (b) of this section, a designated board member of a
 20 condominium or cooperative housing corporation within the proposed district; and

21 (B) owners of at least 51% of the total number of parcels of nonexempt property
 22 and, subject to subsection (b) of this section, a designated board member of a condominium or
 23 cooperative housing corporation within the District;

24 (3) a proposed 3-year business plan that contains:

25 (A) the goals and objectives of the District;

26 (B) the annual proposed business improvement district tax for the proposed
 27 district’s common operations and the formula used to determine each member’s district tax; and

28 (C) the maximum amount and the nature of start-up costs incurred before the
 29 District’s establishment;

30 (4) a tax assessor’s map of the geographic area of the District;

31 (5) a list of the proposed initial board of the proposed district corporation;

- 1 (6) the proposed articles of incorporation and the bylaws of the district corporation; and
- 2 (7) for all nonexempt property within the District:

- 3 (A) the name and mailing address of each owner; and
- 4 (B) the most recent assessed value.

5 (b) Condominiums or cooperative housing corporation may petition.

6 (1) Notwithstanding any other provision of this Chapter, subject to paragraph (2) of this
7 subsection, a condominium or cooperative housing corporation that is located in the District may
8 petition to join the district corporation.

9 (2) A condominium or cooperative housing corporation described under paragraph (1) of
10 this subsection may petition to join the District only if:

11 (A) the condominium or cooperative housing corporation is governed by a
12 board;

13 (B) the board votes to join the district corporation; and

14 (C) the board has a representative member of the board sign the appropriate
15 documents required under subsection (b)(2) of this section.

16 (3) For the purposes of the votes cast under subsection (b)(2) of this section:

17 (A) a condominium or cooperative housing corporation shall be considered a
18 single parcel; and

19 (B) the decision reached by the board shall constitute the vote of the
20 condominium or cooperative housing corporation.

21 **Sec. 10-342. Board of directors.**

22 (a) In general. A board of directors must govern the district corporation.

23 (b) Membership.

24 (1) Subject to paragraph (2) of this subsection, the board of a district corporation consists
25 of eleven (11) members, appointed by the members of the District.

26 (2) Appointment procedures.

27 (A) Until the first meeting of the board of directors, the entire board must consist of
28 the eleven (11) directors constituting the initial board of directors, as set forth in the district
29 corporation's articles of incorporation. Thereafter, the entire board must be comprised of eleven
30 (11) directors. After the initial members, the directors must be elected by the . At the time of
31 election, the Board must be comprised of:

- 1 (i) 3 representatives of property in the District
- 2 (ii) 2 representatives of a business located in the District;
- 3 (iii) 2 representatives in and/or with expertise on green energy, financing,
- 4 accounting;
- 5 (iv) 1 representative with expertise in education policy;
- 6 (v) 1 representative with expertise in workforce development; and
- 7 (vii) 2 representatives with expertise in housing and community development.

8 The Board must not include both an owner and a tenant of the same property in the District at the
 9 same time to prevent a potential conflict of interest.

10 (B) The first election of directors by the members must be held within 180 days after
 11 the date this law takes effect. Subsequent elections must be held annually as provided in
 12 subparagraph C.

13 (C) The board must appoint a nominating committee, which must nominate a slate of
 14 candidates for each annual election. Members may nominate additional candidates at the meeting
 15 called for the purpose of electing directors. Members and persons other than members are
 16 eligible to become directors. Only directors may serve on a committee.

17 (i) Prior to the first election of directors, the nominating committee must
 18 nominate three slates of candidates: one slate to serve as the first class of directors for the term of
 19 3 years; one slate to serve as the second class of directors for the term of 2 years and one slate to
 20 serve as the third class of directors for the term of 1 year. At the first election of directors, the
 21 members must hold a separate election to elect each class of directors.

22 (ii) At each annual election of directors thereafter, the successors to the class of
 23 directors whose term expires that year must be elected for the term of 3 years, so that the term of
 24 office of one class of directors expires in each year.

25 (iii) For each election of directors, each member may cast no more than their
 26 total number of votes for any one candidate. Directors must not be elected through cumulative
 27 voting.

28 (iv) Each director elected by the members must serve until his or her successor is
 29 elected, or until his or her earlier death, resignation or removal in accordance with the district's
 30 bylaws.

31 (c) Chair; officers. From among its members, the board must elect a chair and other officers.

1 (d) Quorum.

2 (1) A majority of the voting members of the board is a quorum.

3 (2) The board may act on a resolution only by the affirmative vote of a majority of the
4 voting members.

5 (e) Compensation; reimbursement for expenses. A member of the board:

6 (1) must not receive compensation as a member of the board; but

7 (2) may be reimbursed for expenses incurred in performing the member's duties.

8 (f) Powers. The board must exercise its powers by resolution.

9 (g) Annual report. The board must file an annual report with the Executive and the Council
10 that includes:

11 (1) a financial statement for the preceding year;

12 (2) a proposed operating budget for the current fiscal year;

13 (3) any proposed revisions to the business plan; and

14 (4) a narrative statement or chart showing the results of operations in comparison to
15 stated goals and objectives.

16 **Sec. 10-343. District corporation net earnings; powers.**

17 (a) Earnings. The net earnings of the district corporation must benefit only the district
18 corporation.

19 (b) Powers.

20 (1) Except as limited by its articles of incorporation, the district corporation has all the
21 powers set forth in §§12-601 to 12-612 of the Economic Development Article of the Annotated
22 Code of Maryland and this Chapter.

23 (2) A district corporation may:

24 (A) receive money from the County, the State, other governmental units, or nonprofit
25 organizations;

26 (B) charge fees for its services;

27 (C) have employees and consultants as it considers necessary;

28 (D) use the services of other governmental units; and

29 (E) receive funding per Sec. 10-340 of this section.

30 (c) Use of powers. A district corporation must operate and exercise its powers solely to
31 accomplish one or more of the legislative purposes of §§12-601 to 12-612 of the Economic

1 Development Article of the Annotated Code of Maryland and this Chapter.

2 **Sec. 10-344. Funding.**

3 (a) Preliminary business improvement district tax roll. Within 10 days after the effective date of
4 this law, the district corporation must provide the Executive and Council with a preliminary
5 business improvement district tax roll.

6 (b) Imposition of business improvement district tax.

7 (1) The Council must impose a business improvement district tax to provide funds for the
8 operation of the District.

9 (2) The Council must impose on members of the District the district tax at a rate specified
10 by the board and approved by the Council.

11 (3) The tax imposed under this subsection must not count against the limits on the ad
12 valorem weighted tax rate on real property in the County Charter.

13 (4) Properties shall begin to be taxed in 2024 with the exception of commercial properties
14 within a quarter of the mile of the Purple Line. Once the Purple Line is complete these
15 properties will have a year to recover and pay into the BID starting the year the Purple Line
16 begins operations.

17 (c) Collection. The district tax must be collected in the same manner as real property taxes are
18 collected and distributed each quarter to the District.

19 (d) Reimbursement for collection costs. The district corporation must reimburse the County for
20 the costs incurred in collecting the district tax.

21 (e) Miscellaneous Revenue. All other revenues collected by a business improvement district
22 corporation, including charges for services and private contributions, must be used to benefit the
23 district corporation.

24 **Sec. 10-345. District Corp duties.**

25 (a) In general. The district corporation must provide public services and facilities in the District
26 that are:

27 (1) primarily of benefit to the property and persons within the District rather than to the
28 County as a whole; and

29 (2) in addition to services and facilities that the County provides generally.

30 (b) Services. The district corporation must provide services that include promoting and
31 programming public interest activities that benefit both residential and commercial interests of

1 the District (and which may incidentally benefit neighboring communities).

2 (c) Insurance. The district corporation must secure reasonable and appropriate insurance for its
3 activities.

4 **Sec. 10-346. Expansion of the District.**

5 (a) Expansion by the District. The District may expand the geographic area of the District if:

6 (1) a petition for inclusion is submitted from:

7 (A) owners of at least 51% interest in the assessed value of the nonexempt property and,
8 subject to subsection (b) of this section, a designated board member of a condominium or
9 cooperative housing corporation proposed for inclusion in the district; and

10 (B) owners of at least 51% of the total number of parcels of nonexempt property and,
11 subject to subsection (b) of this section, a designated board member of a condominium or
12 cooperative housing corporation proposed for inclusion in the district;

13 (2) the petition under paragraph (1) of this subsection is accepted by a majority vote of the
14 board of the district corporation; and

15 (3) the appropriate documents, as applicable, are submitted under §12-608 of the Economic
16 Development Article of the Annotated Code of Maryland and a hearing is held under §12-609 of
17 the Economic Development Article.

18 (b) Expansion by condominium or cooperative housing corporation.

19 (1) Notwithstanding any other provision of this title and subject to paragraph (2) of this
20 subsection, a condominium or cooperative housing corporation that is in the proposed expanded
21 geographic area of the District may petition to join the expansion.

22 (2) A condominium or cooperative housing corporation described under paragraph (1) of
23 this subsection may petition to join the expansion only if:

24 (A) the condominium or cooperative housing corporation is governed by a board;

25 (B) the board votes to join the district corporation; and

26 (C) the board has a representative member of the board sign the appropriate documents
27 required under §12-608 of the Economic Development Article.

28 (3) For the purposes of the votes cast under subsection (a)(1):

29 (A) a condominium or cooperative housing corporation must be considered a single
30 parcel; and

31 (B) the decision reached by the board must constitute the vote of the condominium or

1 cooperative housing corporation.

2 **Sec. 10-347. Review and Evaluation of the District**

3 (a) Review; development of procedures for evaluation. The Council must:

4 (1) review the effectiveness and desirability of continuing the district every 15 years
5 beginning from the time this Act takes effect;

6 (2) assess regulation policies and procedures for evaluating the desirability of continuing the
7 District; and

8 (3) recommend to the Board of Directors whether the District should continue.]

9 * * * * *

10 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
11 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
12 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
13 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
14 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
15 Act, since the same would have been enacted without the incorporation in this Act of any such
16 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
17 or section.

18 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
19 calendar days after it becomes law.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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