

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2023 Legislative Session

Bill No. CB-053-2023

Chapter No. 29

Proposed and Presented by Vice Chair Blegay and Chair Dernoga

Introduced by Vice Chair Blegay and Chair Dernoga

Co-Sponsors _____

Date of Introduction April 25, 2023

ZONING BILL

1 AN ORDINANCE concerning
 2 General Provisions—Development Authority Pursuant to the Prior Ordinance—Limitation and
 3 Prohibition on Certain Uses in the former Residential, Commercial, and Industrial Zones.
 4 For the purpose of limiting and prohibiting the authority in the Zoning Ordinance for certain
 5 uses, under certain circumstances, in the former R-E (Residential Estate) Zone, R-A (Residential
 6 Agricultural) Zone, C-O (Commercial Office) Zone and I-1 (Light-Industrial) Zone of Prince
 7 George's County, utilizing the prior Ordinance Table of Permitted Uses for such Zones as
 8 enacted under CB-08-2021, CB-50-2021, CB-54-2020, CB-88-2018, and CB-89-2018.

9 BY repealing and reenacting with amendments:
 10 Sections 27-1703, 27-1704, 27-1706, 27-1901, 27-1902, 27-
 11 1903, and 1905
 12 The Zoning Ordinance of Prince George’s County, Maryland,
 13 being also
 14 **SUBTITLE 27. ZONING**
 15 The Prince George's County Code
 16 (2019 Edition; 2022 Supplement).

17 WHEREAS, the County Council, sitting as the District Council of Prince George’s County
 18 for that portion of the Maryland-Washington Regional District located in Prince George’s
 19 County, holds broad legislative authority to enact and amend the text of the zoning laws for the
 20 County; and

21 WHEREAS, in its approval of the current general plan for the County in 2014, Plan Prince

1 George’s 2035, the District Council included specific Land Use Policies calling for a
2 comprehensive, wholesale revision and update of the Zoning Ordinance, Subdivision
3 Regulations, and other County regulations to ensure consistency with current general plan
4 growth management goals, vision, and policies; and

5 WHEREAS, over the next four (4) years, the County Council, the Prince George’s County
6 Planning Board, and Executive Branch agencies of the County Government engaged the citizens
7 and residents of the County to garner input and to shape the text of a new Zoning Ordinance for
8 the County; and

9 WHEREAS, after convening multiple public hearings and public work sessions concerning
10 the proposed draft and extensive revisions, on October 23, 2018, the Council approved a new
11 comprehensive Zoning Ordinance for the County via enactment of CB-013-2018, being also
12 Chapter 37, 2018 Laws of Prince George’s County, Maryland, in order to: move away from
13 obsolete land use policies and development procedures; facilitate sustainable development;
14 invest strategically and capitalize on our transportation network for high-quality, compact
15 mixed-use development and housing opportunities; foster and promote community character and
16 preservation of precious County resources; and streamline and optimize the development review
17 procedures to ensure clarity and transparency in the development of land in the County; and

18 WHEREAS, on July 23, 2019, via adoption of CR-27-2019, the Council directed initiation
19 of a Countywide Sectional Map Amendment process (“CMA”) to implement the updated zoning
20 classifications reflected in the new Zoning Ordinance in order for the new zoning laws to take
21 effect; and

22 WHEREAS, the District Council and the Planning Board conducted public hearings on the
23 proposed CMA in order to maximize public input on the proposed CMA and, after multiple
24 public discussions about how to implement a new zoning map of the County, the Council
25 adopted CR-136-2021 on November 29, 2021, declaring therein that the prior Zoning Ordinance
26 would be superseded and of no further force and effect from April 1, 2022; and

27 WHEREAS, during the pendency of the CMA process, the Council made various technical
28 corrections to the text of the new comprehensive Zoning Ordinance via enactment of CB-98-
29 2021 (Ch. 53, 2021 Laws of Prince George’s County) on November 16, 2021, in order to clarify
30 its intent and to guard against, to the maximum extent practicable, such potential unintended
31 consequences affecting the public health, safety, and welfare of the County; and

1 WHEREAS, within the context of discussion on the new Zoning Ordinance, the Council
2 expressed its unambiguous intent to eliminate uses permitted in the prior Ordinance by way of
3 Footnoted exceptions within the Use Tables of the Zoning Ordinance; and

4 WHEREAS, within the superseded prior Ordinance, there appeared 378 numbered
5 “Footnote” exceptions to the Permitted Use tables, more specifically 148 Residential Zone, 89
6 Commercial Zone, 80 Industrial Zone, 38 Comprehensive Design Zone, and 23 Mixed-Use Zone
7 exceptions, respectively; and

8 WHEREAS, all exceptions permitted under the prior Ordinance not carried forward in the
9 new Zoning Ordinance were superseded by operation of law on and after April 1, 2022; and

10 WHEREAS, Part 1 of the new Zoning Ordinance provides Transitional Provisions for those
11 development projects approved and/or constructed pursuant to valid authority under the prior
12 Ordinance, as well as a limited grandfathering period for those property owners desiring to
13 proceed with development pursuant to the prior Ordinance, not to exceed two (2) years from the
14 effective date of the new Zoning Ordinance, or April 1, 2024; and

15 WHEREAS, while there is limited authority to develop using the provisions of the prior
16 Ordinance for certain properties, the new Zoning Ordinance expressly encourages development
17 in accordance with the new Zoning Ordinance, rather than the limited authority of the prior
18 Ordinance provided by the Council in Part 1 of the Zoning Ordinance; and

19 WHEREAS, in furtherance of realizing the goals and visions for land use and development
20 within the current General Plan for the County, *Plan Prince George’s 2035*, there is a need to
21 modify the amount of development authorized under the prior Ordinance to be consistent with
22 longstanding County land use and development vision; and

23 WHEREAS, the Council has reviewed the array of legislative enactments approved within
24 the prior Ordinance, and it has determined that certain specific prior enactments therein are
25 inconsistent with County policies; and

26 WHEREAS, the Council further observes that the referral comments scrutinized the basis
27 for enactment of certain land use and development regulations within the prior, superseded
28 Ordinance as to Townhouse and One-family attached dwelling uses in the R-A (Residential
29 Agricultural) Zone; and

30 WHEREAS, there is a need to further clarify the intention of the Council in defining the
31 terms of the authority for development using the prior Ordinance based on vested rights under

1 Maryland law; now, therefore,

2 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
3 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
4 District in Prince George's County, Maryland that Sections 27-1703, 27-1704, 27-1706, 27-
5 1901, 27-1902, 27-1903 and 27-1905 of the Zoning Ordinance of the Prince George's County,
6 Maryland, being also Subtitle 27 of the Prince George's County Code be and the same is hereby
7 repealed and reenacted with the following amendments:

8 **Sec. 27-1703. Applications Pending Prior to the Effective Date of this Ordinance**

9 Notwithstanding any other provision set forth below, all development applications,
10 including permit applications, pending prior to the effective date of this Ordinance are subject to
11 Section 27-1706. If the development has vested rights under Maryland law, then it may proceed
12 under the following:

- 13 (a) Any development application, including a permit application or an application for zoning
14 classification, that is filed and accepted prior to the effective date of this Ordinance may
15 be reviewed and decided in accordance with the Zoning Ordinance and Subdivision
16 Regulations in existence at the time of the acceptance of said application. An application
17 for zoning classification decided after the effective date of this Ordinance must result in a
18 zone set forth within this Ordinance.

19 * * * * *

20 **Sec. 27-1704. Projects Which Received Development or Permit Approval Prior to the**
21 **Effective Date of this Ordinance**

22 Notwithstanding any other provision set forth below, all development applications,
23 including permit applications, pending prior to the effective date of this Ordinance are subject to
24 Section 27-1706. If the development has vested rights under Maryland law, then it may proceed
25 under the following:

- 26 (a) Except for a zoning map amendment (ZMA) of any type, development approvals or
27 permits of any type approved under this Subtitle or Subtitle 24 of this Code prior to April
28 1, 2022 remain valid for the period of time specified in the Zoning Ordinance or
29 Subdivision Regulations under which the project was approved. Extensions of time which
30 were available in the Zoning Ordinance or Subdivision Regulations under which it was
31 approved shall remain available. If the approval is for a CSP, special permit,

1 Comprehensive Sketch Plan, or CDP, it shall remain valid for twenty years from April 1,
2 2022, and shall not be subject to the indefinite time period of validity under the Zoning
3 Ordinance under which it was approved, except for a CSP as to a Waterfront
4 Entertainment Complex use, which shall remain valid indefinitely. In addition, a Basic
5 Plan approved prior to the effective date of this Ordinance is grandfathered and can be
6 amended. In addition, the text of this Subsection shall control over any other provision of
7 this Section.

8 * * * * *

9 **Sec. 27-1706 [Reserved.] Prohibited laws under the Prior Zoning Ordinance.**

10 Notwithstanding any other provision of this Ordinance, unless a development has vested
11 rights under Maryland law, the following laws shall not apply to any development application,
12 including a permit application, filed pursuant to 27-1703, 27-1704, 27-1903, or 27-1904. Any
13 uses previously approved below are strictly prohibited and ineligible for processing using the
14 prior Zoning Ordinance:

- 15 1. **CB-08-2021 (Chapter 7, 2021 Laws of Prince George’s County, Maryland) AN**
16 ORDINANCE CONCERNING C-O ZONE for the purpose of amending the Commercial
17 Table of Uses Permitted to permit Townhouse uses in the C-O (Commercial Office)
18 Zone, under certain circumstances.
- 19 2. **CB-50-2021 (Chapter 39, 2021 Laws of Prince George’s County, Maryland) AN**
20 ORDINANCE CONCERNING R-E ZONE for the purpose of amending the residential
21 table of uses to permit development of a mix of residential and commercial/retail uses in
22 the R-E (Residential Estate) Zone of Prince George’s County, under certain
23 circumstances.
- 24 3. **CB-88-2018 (Chapter 54, 2018 Laws of Prince George’s County, Maryland) AN**
25 ORDINANCE CONCERNING CLASS 3 FILL RECLAMATION for the purpose of
26 permitting limited Class 3 fill uses as a method of reclaiming former surface mining
27 properties for public use in the R-A (Residential Agricultural) Zones of Prince George’s
28 County, under certain circumstances.
- 29 4. **CB-89-2018 (Chapter 55, 2018 Laws of Prince George’s County, Maryland) AN**
30 ORDINANCE CONCERNING CLASS 3 FILL RECLAMATION for the purpose of
31 permitting, without the requirement for a special exception, limited Class 3 fill uses as a

method of reclaiming former sand and gravel mining properties for public use in the R-A (Residential-Agricultural) Zone, under certain circumstances.

* * * * *

Sec. 27-1901. Abrogation

The provision of this Section shall be abrogated, and of no further force and effect after two (2) years after the effective date of this Ordinance, absent further extension by legislative act of the District Council, subject to Section 27-1905 of this Subtitle.

Sec. 27-1902. Purpose and Intent

(a) Notwithstanding the provisions set forth within this Part, the District Council finds that embodied within the prior Zoning Ordinance (being also Subtitle 27, Prince George’s County Code, 2019 Edition) for purposes of sustaining and/or minimizing wholesale abandonment, for proposals for the development of land in Prince George’s County.

(b) In approving CB-13-2018, it is the intent of the District Council to prospectively implement the provisions of this Subtitle in furtherance of the orderly growth and development of land, as well as the protection of the public health, safety, morals, and general welfare of citizens and residents, in Prince George’s County. However, based on significant public testimony received during consideration of this Ordinance, the Council recognizes that such immediate, wholesale implementation of this Subtitle may not be feasible or appropriate in all circumstances. Accordingly, the purpose of this Section is to provide, for a limited time period and subject to Section 27-1905 of this Subtitle, a process to apply the requirements of the prior Zoning Ordinance (Subtitle 27, Prince George’s County Code, 2019 Ed.).

* * * * *

Sec. 27-1903. Applicability

(a) Development proposals for property within the LCD, LMXC, and LMUTC zones are ineligible for application of the prior Zoning Ordinance. All development proposed in the zones set forth in this Section shall develop in accordance with the requirements of this Ordinance, unless subject to the Transitional Provisions set forth in Section [27-1700](#), Transitional Provisions, of this Subtitle.

(b) Notwithstanding procedures specified in Sections 27-548.09.01 and 27-548.26 of the prior Zoning Ordinance, development proposals within a Transit District Overlay Zone (TDOZ)

1 or Development District Overlay Zone (DDOZ) may not include requests to change the
2 boundary of the approved TDOZ or DDOZ or change the underlying zones.

3 (c) Except as otherwise provided in this Section, proposals or permit applications of any type
4 for properties in all other zones of the County may utilize the prior Zoning Ordinance or
5 Subdivision Regulations for development of the subject property.

6 (d) Notwithstanding the abrogation provisions in Section 27-1901, if an application that elects
7 to utilize the prior ordinance for development of uses other than those prohibited pursuant to
8 this Section is filed and accepted within 2 years from the effective date of this ordinance, the
9 development project shall be reviewed in accordance with the Zoning Ordinance and
10 Subdivision Regulations in existence at the time of the acceptance of a development
11 application.

12 (e) Once approved, development applications, not subject to Section 27-1905 of this Subtitle,
13 that utilize the prior Zoning Ordinance shall be considered “grandfathered” and subject to
14 the provisions set forth in Section 27-1704 of this Subtitle.

15 (f) [Unless an application for development is already filed and accepted and/or constructed, the
16 following enactments are ineligible for processing under the prior Ordinance:...]]

17 (g) [Unless an application for development is already filed and accepted and constructed,
18 development of Townhouse and One-Family attached dwelling uses in the R-A (Residential-
19 Agricultural) Zone is prohibited using the prior Ordinance. Development -applications
20 pursuant to superseded authority under the enactment of CB-17-2019, being also Chapter 29,
21 2019 Laws of Prince George’s County, Maryland, is ineligible for processing under the prior
22 Ordinance.]

23 * * * * *

24 **Sec. 27-1905. Prohibited laws under the Prior Zoning Ordinance.**

25 Notwithstanding any other provision of this Ordinance, unless a development has vested
26 rights under Maryland law, then any development application, including a permit application, filed
27 pursuant to 27-1703, 27-1704, 27-1903 or 27-1904 shall be strictly prohibited and ineligible for
28 processing using the prior Zoning Ordinance as stated in Sec. 27-1706.

29 * * * * *

30 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Ordinance are
31 hereby declared to be severable; and, in the event that any section, subsection, paragraph,

1 subparagraph, sentence, clause, phrase, or word of this Ordinance is declared invalid or
2 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
3 not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs,
4 subsections, or sections of this Ordinance, since the same would have been enacted without the
5 incorporation in this Ordinance of any such invalid or unconstitutional word, phrase, clause,
6 sentence, paragraph, subparagraph, subsection, or section.

7 SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect on the
8 date of its adoption.

Enacted this 30th day of May, 2023.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

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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