

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2007 Legislative Session

Bill No. CB-1-2007

Chapter No. 2

Proposed and Presented by Council Member Dernoga

Introduced by Council Members Dernoga, Turner, Dean, Campos, Knotts, Bland, Harrington

Co-Sponsors _____

Date of Introduction February 13, 2007

BILL

1 AN ACT concerning

2 Obsolete County Code Provisions

3 For the purpose of repealing various obsolete provisions of the County Code that are no longer
4 appropriate subject matter for the County Code.

5 BY repealing:

6 SUBTITLE 2. ADMINISTRATION.

7 Sections 2-103, 2-447, 2-448, and 2-449

8 SUBTITLE 5. BUSINESSES AND LICENSES.

9 Sections 5-184.30, 5-184.31, 5-184.32, 5-184.33,
10 5-184.34, and 5-184.35,

11 SUBTITLE 14. MORALS AND CONDUCT.

12 Section 14-137, 14-138, and 14-139

13 SUBTITLE 18. POLICE.

14 Section 18-187,

15 The Prince George's County Code

16 (2003 Edition, 2006 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's
18 County, Maryland, that Sections 2-103, 2-447, 2-448, 2-449, 5-184.30,
19 5-184.31, 5-184.32, 5-184.33, 5-184.34, 5-184.35, 14-137, 14-138, 14-139 and
20 18-187, of the Prince George's County Code be and the same are hereby
21 repealed:

SUBTITLE 2. ADMINISTRATION.

DIVISION 1. COUNTY COUNCIL.

Sec. 2-103. [Smoking prohibited] Reserved.

[It shall be unlawful for any person to carry lighted tobacco products into, or to smoke tobacco products in, the County Council Hearing Room of the County Administration Building.]

SUBTITLE 2. ADMINISTRATION.

[DIVISION 33. AIRPORT ZONING COMMISSION.]

Sec. 2-447. [Airport Zoning Commission establishment; membership; powers and duties] Reserved.

(a) There is hereby established the Airport Zoning Commission, which shall recommend to the District Council the boundaries of an Airport District Overlay Zone and local legislation and regulations that are consistent with applicable law.

(b) The members of the Airport Zoning Commission shall be the members of the Prince George's County Planning Board who, upon confirmation as members of the Planning Board, shall serve terms coterminous with their Planning Board appointments.

(c) The Airport Zoning Commission shall have the duty of administering and enforcing airport zoning regulations approved by the District Council. The duties of the Commission may also include receiving permit applications and authorizing the issuance of permits.

(d) The Commission shall have authority and power to make such surveys and studies concerning airports, air navigation, land-use policy, conditions, and problems as it may determine or as directed by the District Council for Prince George's County. In making such studies and surveys, the Commission shall be authorized to expend any funds that may be provided for in regular or supplemental appropriations. On the basis of such studies or surveys, the Commission shall recommend to the District Council changes in existing law.

(e) The Commission may, upon majority vote of the full Commission, issue subpoenas to compel the attendance or testimony of witnesses and the production of records and documents. Upon failure to comply with a subpoena, the County, on behalf of the Commission, may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and the production of records and documents. After notice to the person subpoenaed as a witness or directed to produce records and documents, and upon a finding that the attendance and testimony of the witness or the production of the records and documents is

1 relevant or necessary for the proceedings of the Commission, the court may issue an order
 2 requiring the attendance and testimony of the witness and the production of the records and
 3 documents.]

4 **Sec. 2-448. [Regulations; adoption; content; uniformity] Reserved.**

5 [(a) In order to protect the aerial approaches of any airport not owned by the State of
 6 Maryland or the United States of America and located within Prince George's County, Maryland,
 7 the Airport Zoning Commission shall recommend to the District Council the adoption of airport
 8 zoning regulations and boundaries of an Airport District Overlay Zone.

9 (b) Regulations recommended by the Airport Zoning Commission shall include procedures
 10 for obtaining the permits required by Section 2-449 and provisions for enforcement of airport
 11 zoning regulations. The regulations shall divide the area surrounding the airport to which they
 12 apply into areas of the number, shape, and size that are consistent with the minimum standards
 13 set forth in applicable law. The regulations shall include a requirement that the owner of the
 14 property, upon which the airport is located, own or obtain avigation easements for all property
 15 within clear areas. A **clear area** shall be defined as that area within the approach area's inner
 16 area, that starts at the end of the runway, and extends outward at a designated slope.

17 (c) Within the Airport District Overlay Zone, the regulations may restrict the height of
 18 structures, trees, or other vegetation, and the purposes for which land may be used. All
 19 regulations shall be uniform throughout the areas within the Airport District to which they apply.
 20 Regulations applicable to one (1) Airport District may differ from those applicable to another
 21 Airport District.

22 (d) As to each airport, in the recommendation for adoption of an Airport District Overlay
 23 Zoning Map Amendment or airport zoning regulations, the Commission shall consider, among
 24 other things (to the extent that they affect, and in order to promote public health, safety, order, or
 25 security), the following:

26 (1) The character of the flying operations conducted or expected to be conducted at
 27 the airport;

28 (2) The surrounding terrain;

29 (3) The height of existing structures and trees or other vegetation in the vicinity;

30 (4) The feasibility of lowering or removing existing structures or trees or other
 31 vegetation in the vicinity;

1 (5) The opinion of the federal agency charged with fostering civil aeronautics as to
2 aerial approaches necessary for safe flying operations at the airport;

3 (6) The risks associated with aerial traffic at the airport;

4 (7) The type, size, weight, and load capacity of aircraft that use or might use the
5 airport;

6 (8) The weather conditions generally prevailing in the vicinity;

7 (9) The size and layout of the landing area of the airport; and

8 (10) The present and future needs of the inhabitants of this State with reference to the
9 use of the airport for public transportation.

10 (e) No regulation shall be recommended for adoption or change by the Commission until
11 there has been a public hearing at which interested parties and the public have had an opportunity
12 to be heard. At least fifteen (15) days' notice of the date, time, and place of the hearing shall be
13 published in a newspaper of general circulation in each of the areas the airport is or will be
14 located.

15 (f) Regulations recommended by the Airport Zoning Commission shall be submitted to the
16 District Council for approval.

17 (g) The Airport Zoning Commission shall also prepare and transmit a report and
18 recommendations to the District Council proposing boundaries of the Airport District Overlay
19 Zone (an Airport District Overlay Zoning Map Amendment). Prior to transmittal, the
20 Commission shall hold a public hearing in accordance with Subsection (e) of this Section.]

21 **Sec. 2-449. [Permits] Reserved.**

22 [(a) The following activities shall be prohibited within the Airport District Overlay Zone
23 until a permit has been issued:

24 (1) Establishing or constructing any new structure;

25 (2) Making any new use of any existing structure or land;

26 (3) Enlarging, extending, or increasing the height of any existing structure or use of
27 land;

28 (4) Maintaining any personalty to a height that would be an obstruction to air
29 navigation;

30 (5) Building any structure, locating any personalty, or conducting any activity that
31 would result in a frequent or significant congregation of people in any designated clear area; or

(6) As to any tree or other vegetation:

(A) Planting or replanting any of such height as to be an obstruction to air navigation;

(B) Allowing any to grow to such a height as to be an obstruction to air navigation;

(C) Even if nonconforming, allowing any that is an existing obstruction to air navigation to grow any higher.

(b) The application for a permit shall be accompanied by plats, drawings, or other information deemed necessary to enable the Commission to determine if the proposed work, project, or personalty or vegetation placement will comply with applicable law.

(c) Subject to the provisions of Subtitle 27, the Airport Zoning Commission may authorize the issuance of a permit for the replacement or alteration of a certified nonconforming use or structure, except that the Commission may not authorize the issuance of a permit that will allow a structure, tree, or other vegetation to be higher than, or to be a greater hazard to air navigation than, it was when the applicable airport zoning regulation became effective.]

SUBTITLE 5. BUSINESSES AND LICENSES.

[DIVISION 9B. MOTION PICTURE BIDDING.]

Sec. 5-184.30. [Declaration of findings] Reserved.

[The County Council of Prince George's Count, Maryland, hereby finds that there exists a need to establish fair and open procedures for the bidding and negotiations for the right to exhibit motion pictures within Prince George's County in order to prevent unfair and deceptive acts or practices and unreasonable restraints of trade in the business of motion picture distribution within Prince George's County; to promote fair and effective competition in that business; and to insure that exhibitors have the opportunity to view a motion picture and know its contents before committing themselves to exhibiting it in their communities.]

Sec. 5-184.31. [Definitions] Reserved.

(a) For the purposes of this Division, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(1) **Blind bidding** shall mean the offering or bidding for, negotiating for, or agreeing to terms for the licensing or exhibition of a motion picture if the motion picture has not been trade screened as defined herein.

1 (2) **Distributor** shall mean any person engaged in the business of renting, selling,
2 licensing or otherwise distributing motion pictures to exhibitors.

3 (3) **Exhibit or exhibition** shall mean showing a motion picture to the public for a
4 charge.

5 (4) **Exhibitor** shall mean any person engaged in the business of operating one or
6 more theatres.

7 (5) **Geographic market** shall mean an area of effective competition among theatres,
8 including Prince George's County, to license motion pictures.

9 (6) **License** shall mean a contract, agreement, understanding or condition between a
10 distributor and an exhibitor relating to the limited or exclusive exhibition of a motion picture by
11 the exhibitor.

12 (7) **Offer or offering** shall mean any offer, proposal, bid or other communication
13 from an exhibitor to a distributor stating the terms under which the exhibitor will agree to license
14 or exhibit a motion picture or otherwise offering to license or exhibit a motion picture.

15 (8) **Person** shall include one or more individuals, partnerships, associations, societies,
16 trusts, or corporations.

17 (9) **Run** shall mean the continuous exhibition of a motion picture in a designated
18 geographic area for a specified period of time. A first run is the first exhibition of a picture in
19 the designated area, a second run is the second exhibition and subsequent runs are subsequent
20 exhibitions after the second run.

21 (10) **Theatre** shall mean any establishment in which motion pictures are exhibited to
22 the public regularly for a charge.

23 (11) **Trade screening** shall mean the showing of a motion picture by a distributor in
24 Prince George's County, Montgomery County, the District of Columbia or the Commonwealth of
25 Virginia, which showing is open to any exhibitor interested in exhibiting the motion picture.]

26 **Sec. 5-184.32. [Blind Bidding] Reserved.**

27 [(a) Blind bidding is hereby prohibited within the County.

28 (b) Every distributor shall provide reasonable and uniform notice to exhibitors located
29 within the County of any trade screening.

30 (c) Any purported waiver of the requirements of this Division shall be void and
31 unenforceable.]

1 **Sec. 5-184.33. [Advances] Reserved.**

2 [No distributor shall condition the granting or execution of a license agreement for the
3 exhibition of a motion picture at a theatre within the County on the exhibitor advancing more
4 than seven days prior to his first exhibition of the motion picture any funds as security for the
5 performance of the license agreement or to be applied to payments under the license agreement.
6 No distributor shall solicit, request or suggest such an advance.]

7 **Sec. 5-184.34. [Bidding procedures] Reserved.**

8 [(a) If a distributor solicits, requests or invites (whether directly to one or more exhibitors
9 or by a general announcement or advertisement or in any other manner) an offer from more than
10 one exhibitor to license a motion picture in a particular geographic market for the same run, the
11 following requirements shall apply in Prince George's County:

12 (1) The distributor shall inform each exhibitor in Prince George's County whom he
13 solicits, requests or invites to make an offer, or who communicates an interest in making an
14 offer.

15 (A) The number and length of runs for which the picture will be licensed,
16 whether it is a first, second or subsequent run, the geographic area for each run;

17 (B) The names of all exhibitors who are being solicited to make an offer;

18 (C) The date and hour by which offers must be submitted; and

19 (D) The address and time when the offers will be opened, which address shall be
20 within the area in which the motion picture was trade screened.

21 (2) All offers shall be in writing and shall be opened at the same time and in the
22 presence of any exhibitor, or his agent, who submitted an offer and is present at such time.

23 (3) After being opened, offers shall be subject to examination by exhibitors who
24 submitted offers, or their agents, for twenty-one (21) business days. Within seven (7) business
25 days after a motion picture is licensed, the distributor shall notify in writing each exhibitor who
26 submitted an offer of the terms of the license agreement and the name of the exhibitor to whom
27 the picture has been licensed.

28 (4) Once a distributor solicits, requests or invites (whether directly to one or more
29 exhibitors or by a general announcement or advertisement or in any other manner) an offer from
30 more than one exhibitor to license a motion picture in a particular geographic market for the
31 same run, then the distributor shall license that picture in the County only through the procedures

1 specified in paragraphs (1), (2), and (3) of this Section, and the distributor may solicit reoffers if
 2 he does not accept any of the submitted offers.]

3 **Sec. 5-184.35. [Enforcement] Reserved.**

4 [The Office of Law may bring, in the name of the County, any action necessary to enforce
 5 the provisions of this Division, including the seeking of a temporary restraining order and
 6 preliminary injunction.]

7 **SUBTITLE 14. MORALS AND CONDUCT.**

8 **DIVISION 5. OFFENSES AGAINST PUBLIC SAFETY AND MORALS.**

9 **Sec. 14-137. [Sunday amusement regulations] Reserved.**

10 [No person shall operate any bowling alley, tenpin alley, or duckpin alley for recreation or
 11 profit in that part of the County not within the corporate limits of any incorporated town on
 12 Sunday, after 2:00 P.M., and until 12:00 Midnight.]

13 **Sec. 14-138. [Operation of movies on Sunday; permit; fee] Reserved.**

14 [(a) The Department of Environmental Resources shall issue permits to any person lawfully
 15 licensed to operate motion picture machines, entitling such licensee to exhibit and show motion
 16 pictures on Sunday outside the limits of incorporated towns in the County.

17 (b) The Director of Environmental Resources shall have full authority to revoke upon
 18 cause shown after hearing any license authorized under this Section.

19 (c) The Director of Environmental Resources may impose and collect from any applicant a
 20 license fee not to exceed Five Dollars (\$5.00) per annum.]

21 **Sec. 14-139. [Outdoor film regulations] Reserved.**

22 [Any outdoor movie displaying films that are prohibited admission to minors by Annotated
 23 Code of Maryland, 1957, Article 27, Section 416C, shall not display the film so that it may be
 24 seen from a public highway or from any area accessible to the public and not in the bounds of the
 25 premises.]

26 **SUBTITLE 18. POLICE.**

27 **[DIVISION 7. RADIOACTIVE MATERIALS] RESERVED.**

28 **Sec. 18-187. [Transport of radioactive materials] Reserved.**

29 [(a) Purposes and findings.

30 (1) The purposes of this Section are:

1 (A) To provide minimum standards and regulations insuring the safe shipment
 2 and transportation of radioactive materials into, within, through, and out of Prince George's
 3 County.

4 (B) To regulate the transport of hazardous radioactive wastes through Prince
 5 George's County.

6 (2) The Council of Prince George's County finds that:

7 (A) The increasing production of hazardous radioactive wastes and other
 8 radioactive materials has led to increased transportation of these wastes and materials and to
 9 increased occurrences of transportation accidents involving the release of radioactivity to the
 10 environment.

11 (B) While it is unknown exactly how many and what kinds of radioactive
 12 shipments are transported into, within, through, and out of Prince George's County, there is
 13 persuasive evidence that the volume of these shipments and their levels of hazard are substantial
 14 and are expected to increase rapidly in the foreseeable future.

15 (C) There is currently no monitoring of many of these shipments en route, by
 16 either federal or Prince George's County officials, and the federal capabilities for enforcement of
 17 compliance with federal safety regulations are inadequate unless supplemented by state or local
 18 action.

19 (D) There is, therefore, a significant threat to public health and safety and to the
 20 environment from the shipment of hazardous radioactive wastes and other radioactive materials
 21 into, within, through, and out of Prince George's County.

22 (b) Definitions. For the purpose of this act and unless otherwise required by the context:

23 (1) The term **curie** means an expression of the quantity of radiation in terms of the
 24 number of atoms which disintegrate per second; a curie is that quantity of radioactive materials
 25 which decays such that thirty-seven billion atoms disintegrate per second.

26 (2) The term **large quantity radioactive materials** means a quantity the aggregate
 27 radioactivity of which exceeds that specified in Volume 10 of the Code of Federal Regulations
 28 (C.F.R.) part 71 entitled, "Packaging of Radioactive Material for Transport"; Section 71.4(f).

29 (3) The term **millicurie** means one-thousandth of a curie.

1 (4) The term **person** means any individual, partnership, or corporation engaged in the
2 transportation of passengers or property, as common, contract, or private carrier, or freight
3 forwarder.

4 (5) The term **radioactive** means spontaneously emitting ionizing radiation. Materials
5 in which the estimated specific gravity is not greater than 0.002 microcuries per gram of material
6 and in which the radioactivity is essentially uniformly distributed are not considered to be
7 radioactive.

8 (6) The term **radioactive material** means any material or combination of materials
9 which spontaneously emits ionizing radiation. Materials in which the estimated specific activity
10 is not greater than 0.002 microcuries per gram of material and in which the radioactivity is
11 essentially uniformly distributed are not considered to be radioactive materials.

12 (7) The term **transport** is limited to transportation by rail or highway by any mode or
13 type of vehicle or carrier.

14 (c) Transporting of radioactive material.

15 (1) No person shall transport into, within, through, or out of Prince George's County
16 any of the following materials unless a "Certificate of Emergency Transport" has been issued by
17 the County Executive or his designee:

18 (A) Plutonium isotopes in any quantity and form exceeding two grams or twenty
19 (20) curies, whichever is less;

20 (B) Uranium enriched in the isotope U-235 exceeding twenty-five (25) atomic
21 percent of the total uranium content in quantities where the U-235 content exceeds one kilogram;

22 (C) Any elements with atomic number eighty-nine (89) or greater, the activity of
23 which exceeds twenty (20) curies;

24 (D) Spent reactor fuel elements or mixed fission products associated with such
25 fuel elements the activity of which exceeds twenty (20) curies.

26 (E) Large quantity radioactive materials;

27 (F) Any quantity, arrangement, and packaging combination of fissile material
28 specified by the United States Nuclear Regulatory Commission as a "Fissile Class III" shipment
29 in 10 C.F.R., 571.4(d)(3) relating to packaging of radioactive materials for transport.

1 (G) Any shipment or transportation of radioactive material that is required by
2 any federal or Prince George's County regulating agency to be accompanied by an escort for
3 safety reasons.

4 (2) Prior to transporting such materials, such person shall apply to the County
5 Executive or his designee for a "Certificate for Emergency Transport" and shall provide the
6 County Executive with the following information:

7 (A) Name of shipper;

8 (B) Name of carrier;

9 (C) Type and quantity of radioactive material or waste;

10 (D) Proposed date and time of shipment;

11 (E) Starting point, schedule route, and destination; place and time of any stops;
12 unscheduled stops prohibited;

13 (F) Name of designee or receiver;

14 (G) Any other information required by the County Executive which is
15 reasonably related to the foregoing information.

16 (3) No certificate may be issued for the transportation of radioactive waste or spent
17 nuclear fuel of any kind into, within, or through Prince George's County primarily or solely for
18 storage or disposal in the State of Maryland unless the storage or disposal is authorized by the
19 Secretary under Section 689B of Article 43 of the Annotated Code of Maryland.

20 (d) Issuance of certificate of emergency transport.

21 (1) The County Executive or his designee shall not issue a certificate to any person
22 for the shipment or transportation of radioactive materials unless:

23 (A) There is a showing that the radioactive material has been or will be
24 containerized and packaged, and all warning labels affixed to the outer container holding the
25 radioactive material and that the vehicle transporting such material will be operated and
26 equipped in conformity with the regulations of the United States Department of Transportation,
27 the United States Nuclear Regulatory Commission, or any other federal or County agency having
28 jurisdiction regardless of whether the shipment is being made within, into, or out of Prince
29 George's County; and

1 (2) No certificate shall be issued without a finding that appropriate procedures and
 2 precautions exist to protect Prince George's County and its inhabitants in the event of a
 3 transportation accident.

4 (3) Such certificate shall be granted upon a finding that the transporting of such
 5 material shall be accomplished in a manner necessary to protect public health and safety of the
 6 citizens of the County.

7 (4) Such certificate shall be granted or denied not later than three (3) days, Saturdays,
 8 Sundays, and national holidays excluded, after such person has applied for such certificate,
 9 except that if the County Executive or his designee determines that additional time is required to
 10 evaluate such application, the County Executive or his designee shall notify such person not later
 11 than such three (3) day period that such additional time is required. The County Executive or his
 12 designee may require changes in dates, routes, or time for the transporting of such material or the
 13 use of escorts in the transporting of such material if necessary to protect the public health and
 14 safety.

15 (5) The County Executive shall adopt regulations to carry out the provisions of this
 16 Section and shall establish a certificate fee schedule commensurate with the cost of
 17 administering the provisions of this Section.

18 (e) Bonding.

19 (1) No "Certificate of Emergency Transport" shall be issued until the applicant has
 20 filed with the County Executive a bond sufficient to protect Prince George's County from the
 21 costs of cleanup, decontamination, and immediate and residual health costs arising from
 22 radiation exposure. The amount of this bond shall be determined by the County Executive.

23 (2) All or part of this bond may be waived by the County Executive or his designee
 24 upon proof that the applicant has made adequate provisions for bearing the costs of cleanup,
 25 decontamination, health care, and related expenses. The County Executive may issue rules and
 26 procedures for such bonding and for waivers of the bonding requirement.

27 (f) Penalties.

28 (1) Any person who violates any provisions of this Section or the terms of the
 29 "Certificate of Emergency Transport" shall be subject to a fine of not more than One Thousand
 30 Dollars (\$1,000) for each violation. This Section may be enforced by means of citation.

31 (g) Enforcement.

1 (1) In addition to all other remedies provided by law, Prince George's County may
2 institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful
3 transport of radioactive material. Any court of competent jurisdiction may issue restraining
4 orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or
5 relief.]

6 SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
7 calendar days after it becomes law.

Adopted this 13th day of March, 2007.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Camille Exum
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
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.