

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2012 Legislative Session**

Bill No. CB-3-2012

Chapter No. 78

Proposed and Presented by Council Members Harrison and Davis

Introduced by Council Members Harrison, Davis and Franklin

Co-Sponsors _____

Date of Introduction October 9, 2012

ZONING BILL

1 AN ORDINANCE concerning

2 Interim Land Use Controls for Military Installation Conformance

3 For the purpose of developing new development standards and procedures, including the
4 establishment and imposition of temporary zoning requirements for development of properties in
5 the vicinity of Joint Base Andrews for an established limited period of time. This Ordinance
6 creates requirements for granting permits for development, provides for definitions, and
7 establishes a limited validity period for building permits, creating interim requirements for
8 development in all zones.

9 BY repealing and reenacting:

10 Section 27-230,

11 The Zoning Ordinance of Prince George's County, Maryland,

12 being also

13 SUBTITLE 27. ZONING.

14 The Prince George's County Code

15 (2011 Edition).

16 BY adding:

17 Sections 27-1801, 27-1802, 27-1803, 27-1804, 27-1805, 27-1806 and
18 27-1807,

19 The Zoning Ordinance of Prince George's County, Maryland,

20 being also

SUBTITLE 27. ZONING.

The Prince George's County Code

(2011 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Sections 27-1801, 27-1802, 27-1803, 27-1804, 27-1805, 27-1806 and 27-1807 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same are hereby added:

SUBTITLE 27. ZONING.

PART 3. ADMINISTRATION

DIVISION 5. APPEALS AND VARIANCES

Sec. 27-230. Criteria for granting appeals involving variances

* * * * *

(b) The Board of Zoning Appeals shall not have the power or duty to:

* * * * *

(39) Grant a variance from any requirement of Part 18 of this Subtitle.

* * * * *

SUBTITLE 27. ZONING.

PART 18. INTERIM LAND USE CONTROLS.

Sec. 27-1801. Title.

This ordinance shall be known and cited as the "Interim Land Use Controls."

Sec. 27-1802. Purpose and Intent.

(a) The County finds that the health, safety and general welfare of the residents of Prince George's County will be promoted by establishing interim standards for development in areas subject to airport impacts (also referred to as the Interim Land Use Controls (or ILUC) Area) from the Joint Base Andrews Naval Air Facility Washington (hereafter referred to as Joint Base Andrews), so as to ensure development is compatible with the mission and air operations at the base; minimize land use encroachments and exposure to noise, heights and aircraft impacts; increase collaboration and communication between Joint Base Andrews and the county on compatible development and strategies for minimizing impacts; and, establish appropriate

1 controls on the intensification of development and uses in order to protect the health and safety
2 of current and future residents. Specifically, the purposes of the Interim Land Use Controls are:

3 (1) To apply interim requirements for development to protect the process for the
4 development of the Military Installation Overlay Zone (MIOZ) that will establish long term land
5 use controls to facilitate compatible development in the ILUC area

6 (2) To provide the County adequate time to develop effective and achievable
7 standards for development in the ILUC Area.

8 (3) To minimize the intensification and reuse of existing properties except as
9 appropriate and discourage the development of new uses that increase the number of people at
10 risk in the ILUC Area.

11 (4) To protect the safety of residents, employees and the public at large by preventing
12 increases in density of residential uses in the impact areas and places of assembly.

13 (5) To balance the goals of the 2009 Joint Base Andrews Naval Air Facility
14 Washington Joint Land Use Study with the property rights of landowners subject to this
15 Ordinance.

16 (6) To notify landowners and tenants of the impacts from proximity to Joint Base
17 Andrews.

18
19 **Sec. 27-1803. Findings.**

20 (a) The District Council finds and determines that:

21 (1) Interim Land Use Controls are necessary to prevent the intensification of existing
22 land uses while the MIOZ is being developed as proposed in the Joint Land Use Study
23 (December 2009) and supported by recommendations in the Air Installation Compatibility Use
24 Study (December 2007); The 2009 Prince George's County Subregion 5 Master Plan, and The
25 2009 Prince George's County Subregion 6 Master Plan;

26 (2) Joint Base Andrews is a significant national, regional, and local facility that is a
27 major employer in Prince George's County contributing to the local economy and benefitting
28 from the Base Realignment and Closure (BRAC) Act and influx of 2,400 personnel from
29 multiple facilities throughout the metropolitan area;

30 (3) Joint Base Andrews is a significant airport with over 141,000 annual aircraft
31 operations in 2006-2007 carried out by units from all branches of the military, the Department

1 of Energy, and the Maryland State Police;

2 (4) The Joint Land Use Study recommends a Military Installation Overlay Zone to
 3 facilitate compatible development within the noise, height, and safety zones adjacent to the base.
 4 These areas are shown to sustain high levels of noise, be located in areas of potential danger to
 5 safety in the event of an aircraft accident, or where excess height can constitute a hazard to
 6 aircraft operations at Joint Base Andrews (JBA). These impacted areas have been illustrated on
 7 maps and included in Joint Land Use Study (JLUS); and,

8 (5) Development activity within the ILUC Area is intensifying as a result of
 9 affordable land values, zoning that permits uses that are incompatible with airport operations, the
 10 expansion of existing uses, and the availability of vacant land and buildings; and

11 (6) It is a matter of compelling public interest to establish interim development
 12 requirements as set forth in this Ordinance; and

13 (7) These provisions are the minimum necessary to protect the health, safety, and
 14 welfare of the public during the period established in this ordinance.

15 **Sec. 27-1804. Definitions.**

16 (a) Words and terms in this Part are defined as follows:

17 (1) **Approach-Departure Clearance Surface** - The imaginary surfaces which are
 18 symmetrically centered on the extended runway centerline, beginning as an inclined plane (glide
 19 angle) 200 feet beyond each end of the primary surface, and extending for 50,000 feet. The
 20 slope of the approach departure clearance surface is 50:1 until it reaches an elevation of 500 feet
 21 above the established airfield elevation. (Illustrated on Figure XX as B) It then continues
 22 horizontally at this elevation to a point 50,000 feet from the starting point. (Illustrated on Figure
 23 [Height] as C). The width of this surface at the runway end is 2,000 feet, flaring uniformly to a
 24 width of 16,000 feet at the end point.

25 (2) **Conical Surface** - This is an inclined imaginary surface extending outward and
 26 upward from the outer periphery of the inner horizontal surface for a horizontal distance of 7,000
 27 feet to a height of 500 feet above the established airfield elevation. The slope of the conical
 28 surface is 20:1. The conical surface connects the inner and outer horizontal surfaces. (Illustrated
 29 on Figure [Height] as E).

30 (3) **High Intensity Noise Areas** – Areas impacted by noise levels exceeding 74 dBA
 31 Ldn as established by Figure [Noise].

1 (4) **ILUC Area** - The land surrounding Joint Base Andrews and shown to be
2 impacted by one or more of the noise, height, or safety boundaries shown on the Impact Maps
3 attached.

4 (5) **Imaginary surfaces** - Primary surface, approach-departure clearance surface,
5 inner horizontal surface, outer horizontal surface, transitional surface, individually or
6 collectively, as herein defined. According to CFR 77.25, an object that exceeds this imaginary
7 surface is an Obstruction to Air Navigation.

8 (6) **Inner Horizontal Surface** - An imaginary surface that is an oval plane at a height
9 of 150 feet above the established airfield elevation. The inner boundary intersects with the
10 approach-departure clearance surface and the transitional surface. The outer boundary is formed
11 by scribing arcs with a radius 7,500 feet from the centerline of each runway end and
12 interconnecting these arcs with tangents. (Illustrated on Figure [Height] as D)

13 (7) **Land Use Compatibility Guidelines** – A list of land use categories attached as
14 Appendix “A” which reflects the compatibility of each land use with the High Intensity Noise
15 Areas. This list is derived from pages 4-12 through 4-17 of the Air Installation Compatible Use
16 Zone Study for Andrews Air Force Base, prepared by the United States Air Force in December
17 2007.

18 (8) **Noise Contour** - One of the series of boundaries illustrated in Figure XX showing
19 the increases in the intensity of noise as measured in Decibels (DBA Ldn). These boundaries
20 were established by modeling the propagation of noise from the runways at Joint Base Andrews
21 and are recorded for review at Prince George's County Land Records.

22 (9) **Outer Horizontal Surface** - This imaginary surface is located 500 feet above the
23 established airfield elevation and extends outward from the outer periphery of the conical surface
24 for a horizontal distance of 30,000 feet. (Illustrated on Figure [Height] as F)

25 (10) **Primary Surface** - An imaginary surface symmetrically centered on the runway,
26 extending 200 feet beyond each runway end that defines the limits of the obstruction clearance
27 requirements in the vicinity of the landing area. The width of the primary surface is 2,000 feet, or
28 1,000 feet on each side of the runway centerline. (Illustrated on Figure [Height] as A)

29 (11) **Safety Zones** - Accident Potential Zone I, Accident Potential Zone II, and the
30 Clear Zone, individually or collectively, as defined herein and illustrated in Figure [APZ].

31 (12) **Transitional Surface** - An imaginary surface that connects the primary surfaces,

1 the clear zone surfaces, and the approach/departure clearance surfaces to the inner horizontal
 2 surface, conical surface, outer horizontal surface, or other transitional surfaces. The slope of the
 3 transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.
 4 (Illustrated on Figure[Height]as G)

5 **Sec. 27-1805. Applicability.**

6 (a) Affected Areas.

7 This Part applies to all property regardless of underlying zone within the ILUC Area.

8 (b) Impact Maps

9 (1) Impact Maps referenced in this Part establish the geographic boundaries of the
 10 ILUC Area where the requirements of this Part are in force and affect. The Impact Maps are
 11 Figure [Noise], Figure [Height], and Figure [APZ North] and [APZ South]. The Clerk of the
 12 Council shall be the custodian of the official Impact Maps.

13 (2) If a requirement established by this Part specifies a portion of the ILUC Area (i.e.
 14 75+ dBA LDN) the affected land is those properties at or within the specified boundary as
 15 established by the Impact Maps included in this Part.

16 (3) Where a property is affected by more than one Impact Map, the requirements of
 17 all applicable Impact Maps apply. If the requirements between Impact Maps conflict, the most
 18 stringent requirements apply.

19 (4) Where the boundary of an Impact Map divides a property, the requirements of this
 20 Part apply only to the land and structures within the boundaries of that impact map.

21 (c) Development Applications and Permits.

22 This Part applies to the review of all development applications permitted in this Subtitle,
 23 Building permits and Use and Occupancy permits issued within the ILUC Area for the duration
 24 of this Part.

25 (d) Exemptions. This Part does not apply to:

26 (1) Permits for changes in ownership, name, or occupancy with no change of use.

27 (2) Permits for reconstruction of a damaged or destroyed building or structure so long
 28 as the reconstruction includes no increase in the number of pre-existing residential dwelling units
 29 and/or no increase in the square footage of pre-existing non-residential development in
 30 accordance with Sec. 27-241(c), Sec. 27-241 and Sec. 27-242(b)(6) of this Subtitle.

31 (3) Permits for the alteration, enlargement, or extension of existing single family

1 dwellings.

2 (4) Permits for any grading or infrastructure improvements.

3 (5) Permits for any public facility or public utility.

4 (6) Permits for any property subject to a Development District Overlay Zone

5 (DDOZ).

6 (7) Permits for properties where a Zoning Map Amendment Application, Preliminary
7 Plan of Subdivision or Detailed Site Plan was approved prior to the adoption of these interim
8 regulations and where, as part of the approval, the proposed development was evaluated for
9 conformance with the Air Installation Compatibility Use Zone Study for Andrews Air Force
10 Base, provided the proposed permit conforms to any conditions imposed by such prior approval.

11 (8) Permits to complete the development and construction of residential lots in
12 accordance with prior approved preliminary plans, detailed site plans, special exceptions or final
13 plats, where infrastructure has been partially installed and construction of some of the residential
14 units has been completed. This exemption is also intended to include residential lots in
15 contiguous recorded plats of subdivision, whether or not approved as part of the same
16 preliminary subdivision plan, which are being developed as a single, unified project.

17 (9) Permits to complete the development and construction of an industrially zoned lot
18 in accordance with prior approved preliminary plans of subdivision, detailed site plans, special
19 exceptions or final plats where infrastructure for roads and stormwater management has been
20 partially installed.

21 (10) Permits for development of surface parking may be permitted within a safety zone
22 provided the surface parking abuts and serves a structure outside of all safety zones.

23 (11) Permits for properties where a Detailed Site Plan has been approved in
24 accordance with Sec. 27-1810 (b) of this Part. If permits would otherwise be denied under this
25 Part, an applicant may submit a Detailed Site Plan under Sec. 27-1810 (b). If such a Detailed
26 Site Plan is approved, permits may be issued in conformance with that approval and all findings
27 made by the Planning Board.

28 **Sec. 27-1806. Requirements in the Height Area**

29 (a) Imaginary Surfaces in the ILUC Area are established by Figure [height].

30 (b) The issuance of permits authorizing any construction within the boundaries established
31 in Figure [height] shall be subject to the following additional restrictions:

1 (1) No permit shall be issued for construction in the boundaries shown in Figure
 2 [height] that exceeds the height of the Imaginary Surfaces

3 (2) At the time of permit, a registered Engineer or qualified professional of competent
 4 expertise shall certify that structures do not exceed the Imaginary Surfaces shown in Figure
 5 [height].

6 **Sec. 27-1807. Requirements in the Noise Area.**

7 (a) Noise Contours in the ILUC Area are established by Figure [noise].

8 (b) The issuance of permits authorizing construction of new residential dwellings within
 9 the boundaries established in Figure [noise] shall be subject to the following additional
 10 restrictions:

11 (1) At the time of construction permit, interiors of new residential construction must
 12 be certified to 45 dBA Ldn or less by an Acoustical Engineer or qualified professional of
 13 competent expertise.

14 **Sec. 27-1808. Requirements in the High Intensity Noise Areas**

15 (a) High Intensity Noise Areas in the ILUC Area are established by Figure [Noise].

16 (b) The issuance of permits authorizing any construction within the High Intensity Noise
 17 Areas shall be subject to the following additional restrictions:

18 (1) No permit shall be issued for construction of a building or structure for a use
 19 which is listed in the Land Use Compatibility Guidelines as incompatible.

20 (2) At the time of permit, if a compatible use requires noise level reduction within the
 21 interior of a building, such noise reduction must be certified by an Acoustical Engineer or
 22 qualified professional of competent expertise.

23 (3) New use and occupancy permits for non-residential uses which do not require new
 24 construction can be issued provided that the proposed use is listed in the Land Use Compatibility
 25 Guidelines as a compatible use. The use and occupancy permit site plan shall contain a note
 26 specifying that the property is located in a High Intensity Noise Area. Noise level reduction
 27 shall not be required to be incorporated into existing buildings.

28 **Sec. 27-1809 Requirements in the Safety Zones.**

29 (a) Safety Areas are established by Figure [APZ]

30 (b) The issuance of permits authorizing any construction within the boundaries established
 31 in Figure [APZ] shall be subject to the following additional restrictions:

1 (1) A permit shall not be issued for new construction on vacant land.

2 (2) A permit shall not be issued for the construction of new residential units.

3 (3) Permits shall not be issued for improvements that expand the Gross Floor Area of
4 a non-residential structure.

5 (4) Permits shall not be issued for a use that involves the storage or use of explosive,
6 flammable, or toxic material in outdoor above ground storage tanks on non-residential properties.

7 (5) In no case shall a permit be issued for the following uses except as exempt in Sec.
8 27-1805(d) of this Part:

9 (A) Adult day care center or facility

10 (B) Adult Entertainment

11 (C) Adult rehabilitation center

12 (D) Assisted living facility

13 (E) Auditorium

14 (F) Boarding or Rooming House

15 (G) Chancery

16 (H) Church or similar place of worship, convent, or monastery

17 (I) Community building

18 (J) Congregate Living

19 (K) Day care center for children

20 (L) Eating and drinking establishment

21 (M) Eleemosynary or philanthropic institution

22 (N) Family day care

23 (O) Health campus

24 (P) Hospital

25 (Q) Medical/residential campus

26 (R) Modular classroom as a temporary use

27 (S) Nursing or care home

28 (T) Recreational Establishment of Commercial Nature

29 (U) School, private

30 (V) Small group child care

31 (W) Theatre

1 (c) Validity Period – For properties in the boundaries of Figure [APZ], all building
2 permits, including those issued prior to [effective date], shall remain valid for a period not to
3 exceed four (4) months. The validity period of an expired building permit shall not be extended,
4 unless the permittee provides documentary evidence that a contract purchaser has secured
5 financing to complete construction of the dwelling described on the issued permit.

6 **Sec. 27-1810. Conditions on Development Applications**

7 (a) At the time of approval of development application permitted in this Subtitle, including
8 but not limited to Detailed Site Plans in accordance with Sec. 27-281, the Planning Board shall
9 include reasonable conditions to fulfill the requirements of this Part.

10 (b) Where a Limited Detailed Site Plan or a Detailed Site Plan is approved for a property
11 affected by the requirements of this section, permits may be issued for construction and use and
12 occupancy if the Planning Board makes the following findings in its approval:

13 (1) The property is not within the boundaries of the Clear Zone;

14 (2) Proposed development shall not exceed the height of the Imaginary Surfaces;

15 (3) Interior noise shall be attenuated to minimum safe levels for the proposed use;

16 (4) Stormwater facilities and landscaping are designed to minimize the attraction of
17 birds or other aircraft strike hazards;

18 (5) No aboveground storage of flammable, explosive, or hazardous material is
19 permitted; and.

20 (6) Proposed structures are designed to minimize the number of people in the areas of
21 highest accident potential or noise.

22 (c) Plans submitted in accordance with this section shall include elements sufficient to
23 make the findings required by the Planning Board.

24 (d) An application received strictly to conform to the terms of this Part which otherwise
25 would not require approval of a Detailed Site Plan shall require a Limited Detailed Site Plan that
26 is submitted and reviewed in accordance with Sec. 27-286(a). Such a plan shall include only
27 those elements necessary to address the findings of Sec. 27-1810(b), notwithstanding the
28 provisions of Sec. 27-282.

29 * * * * *

30 SECTION 2. BE IT FURTHER ENACTED that the Planning Director shall not
31 recommend approval for any permit in the ILUC Area for which an application is filed beginning

1 January 1, 2013, unless the application fully complies with Part 18 of Subtitle 27.

2 SECTION 3. BE IT FURTHER ENACTED that the Director of the Department of
3 Environmental Resources shall not issue any building permit in the ILUC Area for which an
4 application is filed beginning January 1, 2013, unless the application fully complies with Part 18
5 of Subtitle 27. In addition, the Director shall not grant an extension to the validity period for any
6 expired building permit in the ILUC Area, including those permits issued prior to January 1,
7 2013, unless the application fully complies with Part 18 of Subtitle 27.

8 SECTION 4. BE IT FURTHER ENACTED that if any sentence, clause, section, provision,
9 or part of this Act is held illegal, invalid, unconstitutional, or unenforceable, such illegality,
10 invalidity, unconstitutionality, or unenforceability shall not affect or impair any of the remaining
11 sentences, clauses, sections, provisions, or parts of the Act. It is hereby declared to be the intent
12 of the District Council that this Act would have been adopted as if such illegal, invalid,
13 unconstitutional, or unenforceable sentence, clause, section, provision, or part had not been
14 included.

15 SECTION 5. BE IT FURTHER ENACTED that this Ordinance shall be abrogated and no
16 longer effective twelve (12) months after adoption. This may be extended for a period of six (6)
17 months up to one (1) time by council action.

18 SECTION 6. BE IT FURTHER ENACTED that the District Council hereby directs the
19 Joint Land Use Implementation Committee to explore economic development resources, tools,
20 and devise strategies to mitigate any potential negative effects on property owners within the
21 Clear Zone.
22

1
2

SECTION 7. BE IT FURTHER ENACTED that this Ordinance shall take effect on the effective date of CB-4-2012.

Adopted this 20th day of November, 2012.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Andrea C. Harrison
Chair

ATTEST:

Redis C. Floyd
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.