

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2010 Legislative Session**

Bill No. _____ CB-19-2010 _____
Chapter No. _____ 11 _____
Proposed and Presented by _____ Council Member Dernoga _____
Introduced by _____ Council Member Dernoga _____
Co-Sponsors _____
Date of Introduction _____ April 27, 2010 _____

ZONING BILL

1 AN ORDINANCE concerning
2 Eating or Drinking Establishments
3 For the purpose of making clarifying amendments to the requirements for eating or drinking
4 establishments

5 BY repealing and reenacting with amendments:

6 Sections 27-107.01, 27-461 (b), 27-473 (b), and 27-568,
7 The Zoning Ordinance of Prince George's County, Maryland,
8 being also
9 SUBTITLE 27. ZONING.
10 The Prince George's County Code
11 (2007 Edition, 2009 Supplement).

12 BY repealing:

13 Section 27-350,
14 The Zoning Ordinance of Prince George's County, Maryland,
15 being also
16 SUBTITLE 27. ZONING.
17 The Prince George's County Code
18 (2007 Edition, 2009 Supplement).

19 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
20 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional

1 District in Prince George's County, Maryland, that Sections 27-107.01, 27-461(b) and 27-473(b)
2 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the
3 Prince George's County Code, be and the same are hereby repealed and reenacted with the
4 following amendments:

5 **SUBTITLE 27. ZONING.**

6 **PART 2. GENERAL.**

7 **DIVISION 1. DEFINITIONS.**

8 **Sec. 27-107.01. Definitions.**

9 (a) Terms in the Zoning Ordinance are defined as follows:

10 * * * * *

11 (81.1) Eating or Drinking Establishment: An establishment that provides food or
12 beverage for consumption on or off premise, which may be developed freestanding, on a pad site
13 or attached to or within a group of buildings, which may include drive-through service, carryout,
14 outdoor eating and entertainment, to exclude adult entertainment.

15 * * * * *

16 [(199)] **[Restaurant, Drive-In:** An establishment used for the preparation and sale
17 of food products intended for ready consumption outside the building. The products are
18 generally packaged in paper or served in other types of disposable plates, wrappers, or
19 containers, and exclusively served to patrons while remaining in their motor vehicles. In Prince
20 George's County, a "Drive-In Restaurant" shall be considered to be a type of "Fast-Food
21 Restaurant."]

22 [(200)] **[Restaurant, Fast-Food:**

23 (A) An establishment used for the preparation and sale of food products which are:

24 (i) Generally packaged in paper or served on (in) disposable plates,
25 wrappers, or containers; and

26 (ii) Intended for ready consumption either inside the building at tables, on a
27 patio, on the premises in parked cars, or off the premises.

28 (B) The operation may or may not involve service directly to patrons in their motor
29 vehicles.

30 (C) The term does not include:

- 1 (i) A retail outlet selling food items primarily for home preparation and
2 consumption; or
- 3 (ii) A restaurant which serves food primarily on nondisposable tableware, but
4 provides incidental carryout service, where the space used for carryout service does not exceed
5 five percent (5%) of the total patron seating area or eighty (80) square feet (whichever is less).]

**PART 6. COMMERCIAL ZONES.
DIVISION 3. USES PERMITTED.**

Sec. 27-461. Uses permitted.

(b) TABLE OF USES I.

USE	ZONE					
	C-O	C-A	C-S-C	C-W	C-M	C-R-C
(1) COMMERCIAL:						
(A) Eating or Drinking Establishments:						
[Drive-in restaurant]	[X]	[SE]	[SE]	[X]	[SE]	[X]
[Fast-food restaurant:]						
[(i)] [Within a wholly enclosed shopping mall, or department, variety, or drug store]	[X]	[X]	[P]	[X]	[X]	[P]
[(ii)] [Within an office building]	[PA]	[X]	[P]	[X]	[PA]	[X]
[(iii)] [Within a hotel]	[X]	[X]	[PA]	[X]	[PA]	[X]
[(iv)] [Accessory to, and as an integral part of, an allowed recreational facility]	[P]	[P]	[P]	[PB]	[P]	[X]
[(v)] [Within, and sharing the same points of vehicular access as, an integrated shopping center having six individual businesses (including the fast-food restaurant) and a minimum 50,000 square foot gross floor area] ^{10]} [(CB-29-1986)]	[X]	[X]	[P]	[X]	[X]	[X]
[(vi)] [Provided that the fast-food restaurant is part of an integrated shopping center, is not attached to a gas station, is limited to a maximum 2,000 square foot gross floor area, no more than 20 seats, and no drive-in or delivery service] ^{16]} [(CB-126-1989)]	[X]	[X]	[P]	[X]	[P]	[X]
[(vii)] [All others]	[X]	[SE]	[SE]	[SE]	[SE]	[X]
Eating or drinking establishment, with [full] drive-through service (CB-49-2005)	X	X	P ²⁴	X	P ²⁴	X
Eating or drinking establishment, excluding [full] drive-through service (CB-49-2005)	P ^[24]	[X]P	P ^[24]	[X]P	P ^[24]	[X]P

USE	ZONE					
	C-O	C-A	C-S-C	C-W	C-M	C-R-C
[Eating or drinking establishment, attached to or within a group of buildings, sharing a common wall extending from the lowest floor to the ceiling or sharing a building with one or more other uses, excluding full drive-through service] [(CB-49-2005)]	[P]	[P]	[P]	[P]	[P]	[P]
Eating or drinking establishment of any type, including music and patron dancing past the hours of 12:00 A.M., excluding adult-oriented uses (CB-49-2005)	X	X	SE	[X]SE	SE	X
Eating or drinking establishment of any type providing [live] adult-oriented performances (CB-49-2005)	X	X	X	X	P ^{24, 51}	X

* * * * *

24 Subject to Detailed Site Plan approval in accordance with Part 3, Division 9, of this Subtitle. Any fast-food restaurant operating pursuant to an approved Special Exception as of the effective date of CB-49-2005 shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such fast-food restaurants and their underlying special exceptions may be modified pursuant to the existing provisions relating to revisions or amendments to special exceptions generally and fast-food restaurants specifically as they exist in the Zoning Ordinance.
(CB-120-1994)

* * * * *

51 Subject to the following conditions:
 (A) The hours of operation shall be limited to 7:00 P.M. to 11:00 P.M.
 (B) The establishment shall be located at least one thousand (1,000) feet from any school, or any other building or use providing [live] adult-oriented performances and at least three hundred (300) feet from any residential zone or from land used for residential purposes in any zone.
 (C) Any establishment providing [live] adult-oriented performances lawfully established, operating and has a validly issued use and occupancy permit prior to the effective date of these conditions must conform to the permitted use and location requirements on or before November 30, 2007.

(CB-49-2005)

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**PART 7. INDUSTRIAL ZONES.
DIVISION 3. USES PERMITTED.**

Sec. 27-473. Uses permitted.

(b) TABLE OF USES.

USE	ZONE				
	I-1 ³³	I-2 ³³	I-3	I-4	U-L-I
(1) COMMERCIAL:					
(A) Eating or Drinking Establishments:					
[(i)] [Accessory to, and within the same building or group of attached buildings as, any permitted use except a hotel or motel] [(CB-37-1988)]	[P]	[P]	[X]	[PA]	[SP][²⁵]
[(ii)] [Within a hotel] [(CB-97-2004)]	[SE][^{5, 10}]	[SE][⁵]	[P][⁶]	[X]	[SE]
[(iii)] [Within a motel]	[SE][⁵]	[SE][⁵]	[X]	[X]	[SE]
[(iv)] [Within an office building:]					
[(aa)Fast-food restaurant]	[P]	[P]	[PA][⁶]	[X]	[SE]
[(bb)Other than fast-food restaurant]	[P]	[P]	[P][⁶]	[X]	[SE]
[(v)] [Within an industrial park:]					
[(aa)Of at least 100 acres, fast food restaurant]	[SE]	[SE]	[SE][³⁰]	[SE]	[SE]
[(bb)Of at least 100 acres, all others]	[SE]	[SE]	[P][²⁹]	[SE]	[SE]
[(cc)Of between 25 and 100 acres, excluding a fast-food restaurant] [(CB-10-2003)]	[SE]	[SE]	[P]	[SE]	[SE]
[(dd)Of less than 25 acres, except as provided above]	[SE]	[SE]	[SE][¹¹]	[SE]	[SE]
[(ee) Approved with a hotel component] [(CB-92-2001)]	[X]	[X]	[P]	[X]	[X]
[(ff) Of between 25 and 100 acres, including a fast-food restaurant] [(CB-97-2004)]	[SE][¹⁰]	[SE]	[SE]	[SE]	[SE]
[(vi)] [Other than fast-food restaurant on property abutting a minimum of 20 acres of C-S-C zoned land]	[P]	[SE]	[SE]	[SE]	[SE]

USE	ZONE				
	I-1 ³³	I-2 ³³	I-3	I-4	U-L-I
[(vii)] [Within an existing retail center with net leasable building space of less than 26,000 square feet] [(CB-93-2001)]	[P] ^[41]	[X]	[X]	[X]	[X]
[(viii)] [All others] [(CB-21-1987; CB-34-1987; CB-57-1994; CB-37-1998)]	[SE]	[SE]	[SE] ^[11]	[SE]	[SE] ^[11]
(i) <u>Eating or drinking establishment, with drive-through service</u>	<u>P</u> ⁵⁴	<u>P</u> ⁵⁴	<u>P</u> ⁵⁴	<u>P</u> ⁵⁴	<u>SP</u>
(ii) <u>Eating or drinking establishment, excluding drive-through service</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
(iii) <u>Eating or drinking establishment of any type, including music and patron dancing past the hours of 12:00 A.M., excluding adult-oriented uses</u>	<u>SE</u>	<u>SE</u>	<u>P</u> ⁵⁴	<u>SE</u>	<u>SP</u>
(iv) <u>Eating or drinking establishment of any type providing adult-oriented performances</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

* * * * *

5 Approved as an accessory use with approval of the Special Exception for the hotel or motel.

[6] Not exceeding fifteen percent (15%) of the gross floor area, in combination with allowed C-S-C Zone uses, but not a fast-food restaurant within a hotel. (CB-34-1987)]

* * * * *

10 Permitted use without requirement for Special Exception provided:

- (A) The use is located within an industrial park which is adjacent to a Beltway interchange constructed after June, 2002;
- (B) The parcel(s) is the subject of a Preliminary Plan of Subdivision that was approved pursuant to Subtitle 24 of this Code prior to June 30, 2004;
- (C) A Detailed Site Plan shall be approved in accordance with Part 3, Division 9, of this Subtitle;
- (D) The acreage of lots (used for commercial purposes) shall not exceed twenty-five percent (25%) of the acreage of lots used for industrial purposes in the industrial park;
- (E) No more than two (2) fast-food restaurants shall be allowed in the industrial park;
- (F) Motels are prohibited; and
- (G) Hotel amenities shall include at a minimum a swimming pool, fitness center, room service, concierge service, parking, and restaurant(s) located within the building.

(CB-97-2004)

[11 Provided the establishment is not a fast-food restaurant.]
[(CB-21-1987)]

* * * * *

25 The gross floor area shall not exceed 25% of the gross floor area of the building within which this accessory use is located.
(CB-1-1994)

* * * * *

[29 Provided:

- (A) The minimum seating capacity is one hundred (100);
 - (B) More than fifty percent (50%) of its revenue is derived from the sale of food;
 - (C) The primary operation is limited to the sale of food and beverages for consumption on the premises; however, ancillary carry out is permitted;
 - (D) Not more than one such establishment providing cafeteria style service exclusively shall be permitted within the industrial park;
 - (E) For establishments to be open to the public before 11:00 a.m., the exact time of opening shall be determined at the time of Detailed Site Plan approval; and
 - (F) The establishment is not a fast food restaurant.]
- [(CB-57-1994)]

[30 A fast food restaurant may be permitted by Special Exception provided the following criteria are met:

- (A) Not more than one fast food restaurant shall be permitted within the industrial park;
 - (B) The design of the fast food restaurant shall be architecturally compatible with surrounding buildings and uses; and
 - (C) The fast food restaurant is part of an assemblage of at least two (2) other eating and drinking establishments arranged so as to create, in combination, a unified development scheme.]
- [(CB-57-1994)]

* * * * *

41 Permitted as an accessory use to a gas station located within an industrial park.
(CB-92-2001)

* * * * *

54 Subject to Detailed Site Plan approval in accordance with Part 3, Division 9, of this Subtitle. Any fast-food restaurant operating pursuant to an approved Special Exception as of the effective date of CB-49-2005 shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such fast-food restaurants and their underlying special exceptions may be modified pursuant to the existing provisions relating to revisions or amendments to special exceptions generally and fast-food restaurants specifically as they exist in the Zoning Ordinance.

SUBTITLE 27. ZONING.

PART 2. GENERAL.

DIVISION 1. DEFINITIONS.

Sec. 27-568. Schedule (number) of spaces required, generally.

(a) In all zones (except the M-X-T Zone), the minimum number of required off-street parking spaces for each type of use shall be as listed in the following schedule. In the schedule, each "employee" means each employee on the largest shift.

TYPE OF USE	NUMBER OF SPACES	UNIT OF MEASUREMENT
(4) RECREATIONAL/ENTERTAINMENT/SOCIAL/CULTURAL:		
* * * * *	* *	* * * * *
(D) Miscellaneous:		
* * * * *	* *	* * * * *
[Drive-in or fast-food restaurant] <u>Eating or Drinking Establishment (including drive-through service)</u>	+1.0	50 sq. ft. of GFA (excluding any area used exclusively for storage or patron seating, and exterior patron service area)
Eating or drinking establishment (not including drive-[in] through service [or fast-food restaurant])	1.0	3 seats
* * * * *	* *	* * * * *

SECTION 2. BE IT FURTHER ENACTED that Section 27-350 be and the same is hereby repealed:

PART 4. SPECIAL EXCEPTIONS.

DIVISION 3. ADDITIONAL REQUIREMENTS FOR SPECIFIC SPECIAL EXCEPTIONS.

Sec. 27-350. [Drive-in or fast-food restaurant.] Reserved.

[(a) A drive-in or fast-food restaurant may be permitted, subject to the following:]
[(1) All proposed buildings, structures, and outdoor facilities (including vehicle parking) shall be located at least two hundred (200) feet from the nearest property line of any land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may reduce this

1 setback requirement when it determines that the landscaping, screening, and buffering
2 requirements in the Landscape Manual, or other conditions, will adequately protect abutting
3 residential property;]

4 [(2) A bicycle rack for at least six (6) bicycles shall be provided on the premises,
5 unless the applicant demonstrates to the satisfaction of the District Council that the requirement
6 is inappropriate because of the location or nature of the establishment;]

7 [(3) The use will not restrict the availability, or upset the balance, of land use in the
8 neighborhood for other commercial uses; and]

9 [(4) Special consideration shall be given to advertisement, outdoor display, outdoor
10 activity, lighting, hours of operation, and other aspects of the proposed operation to assure that
11 the health, safety, and general welfare of the community will be protected.]

12 [(b) A special exception shall not be required for the conversion of a drive-in restaurant to a
13 fast-food restaurant, or the conversion of a fast-food restaurant to a drive-in restaurant, provided
14 that no enlargement or extension takes place. The addition of a window or other facility to
15 provide for drive-in service shall not be construed to be an enlargement or extension. The
16 conversion shall be permitted for a drive-in or fast-food restaurant which has become a certified
17 nonconforming use or was established pursuant to a Special Exception, provided that any
18 conditions of the Special Exception remain in effect.]
19

1 SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
2 (45) calendar days after its adoption.

Adopted this 8th day of June, 2010.

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: _____
Thomas E. Dernoga
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.