

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

1999 Legislative Session

Bill No. _____ CB-2-1999 _____

Chapter No. _____

Proposed and Presented by _____ Council Member Maloney _____

Introduced by _____ Council Member Maloney _____

Co-Sponsors _____

Date of Introduction _____ April 6, 1999 _____

ZONING BILL

1 AN ORDINANCE concerning

2 Maryland - Washington Regional District Boundaries

3 For the purpose of providing procedures for statutory review of proposed zoning relating to
4 annexations by a municipality with zoning authority.

5 BY adding:

6 Sections 27-648.01 and 27-648.02,

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 (1995 Edition, 1998 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
13 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
14 District in Prince George's County, Maryland, that Sections 27-648.01 and 27-648.03 of the
15 Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince
16 George's County Code, be and the same are hereby added:

SUBTITLE 27. ZONING.

**PART 13. AREA MASTER PLANS, GENERAL PLAN, FUNCTIONAL
MASTER PLANS, AND PLANNING AREAS.**

DIVISION 2. PROCEDURES.

Sec. 27-648.01. Zoning Classification in Annexed Areas; Application and Notice.

(a) Where any area is annexed, or proposed to be annexed, into a municipality authorized by the Regional District Act to have and having a planning and zoning authority, the municipality may not, for a period of five years following annexation, place the land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly approved General Plan, Area Master Plan, or Functional Plan without the express approval of the District Council granted in accordance with Section 27-648.02.

(b) At the time the initial zoning classification of a property annexed or proposed to be annexed is established by the municipality, the proposed zoning classification shall be reviewed by the District Council to determine whether the proposed zoning classification permits a land use which is substantially different from the current land use specified in the current and duly approved General Plan, Area Master Plan, or Functional Plan. If the proposed zoning classification is determined by the District Council to be substantially different, the District Council shall either expressly approve or disapprove the proposed zoning classification. The request to review the proposed initial zoning classification shall be submitted by either the owner of the property or by the municipality in conjunction with the notice of the proposed annexation. The review of the initial zoning classification shall be performed without the payment of a fee.

(c) Within a period of five years following annexation, the owner of the property or the municipality shall submit each proposed change or amendment to the initial zoning classification established by the municipality at the time of annexation to the District Council to determine whether the proposed zoning classification permits a land use which is substantially different from the use for the land specified in the duly adopted General Plan, Area Master Plan, or Functional Plan which was applicable to the property at the time of annexation. If the proposed zoning classification is determined by the District Council to be substantially different, the District Council shall either expressly approve or disapprove the proposed zoning classification. An application for review of the proposed amendment to the zoning classification shall be filed with the Planning Board by the owner of the property or the municipality or its authorized representative. An application for review shall conform to the requirements of Section 27-143.

(d) Upon acceptance, the Planning Board shall notify the District Council that an application for review has been filed. Within fifteen (15) days after an application for review is accepted by the Planning Board, the District Council shall designate a date for the public

1 hearing. Notice of the date, time, and place of the hearing, and a description of the property and
 2 the zone requested, shall be published by the Planning Board at least two (2) times in the
 3 newspapers of record. The first notice shall be published at least fifteen (15), but not more than
 4 thirty (30), days prior to the date of the public hearing. The Planning Board shall post the
 5 property with a durable sign at least thirty (30) days prior to the scheduled hearing date. The
 6 sign shall be provided by the Planning Board and shall be posted in accordance with Section 27-
 7 142.01. Notification shall be mailed by regular mail to the municipality and to all property
 8 owners located within one thousand feet of the property which is the subject of the proposed
 9 annexation and to all Homeowners Associations and Civic Associations located within one mile
 10 of the property. The inadvertent failure of the Planning Board to send, or the a property owner to
 11 receive, the mailing shall not invalidate the final action on the application for review.

12 (e) Prior to the preparation of the Technical Staff Report, the Staff shall transmit copies of
 13 the proposal to all public agencies and municipalities with operational or planning responsibility
 14 over the subject property, with a request to review the application and advise the Staff (within
 15 twenty (20) days) of:

16 (1) The estimated public service needs generated by the proposal; and

17 (2) The estimated public facilities needed (including the capital cost) to serve the
 18 subject property and its environs in the requested zoning classification(s).

19 (f) In connection with each application, a report by the Technical Staff shall be submitted
 20 to the Planning Board for its review and approval.

21 (1) The report shall contain the following:

22 (A) A description of the property and a listing of its zoning, infrastructure, and
 23 existing uses.

24 (B) A delineation of a neighborhood, which shall also be shown on either a
 25 Zoning Map, aerial photograph, or sketch map.

26 (C) A delineation of adjacent and nearby properties and a description of their
 27 zoning and use category.

28 (D) A full statement and analysis of the applicable recommendations of the
 29 General Plan, Area Master Plan and Functional Plans for the property and surrounding properties
 30 in the neighborhood.

31 (E) A statement regarding the compliance of the requested zoning with the

1 recommendations of the Master Plan and the effect an approval of the requested zoning will have
 2 on the Master Plan.

3 (F) A full statement of the public facilities/services (including costs) available as
 4 required to serve the property as it presently exists and a reasonable projection of these public
 5 facilities/services (including costs) required to serve the property, if annexed, including new
 6 zoning and uses. The statement shall include any and all funding sources for capital
 7 improvement projects.

8 (G) The date of the hearing.

9 (H) The recommendations of the Technical Staff.

10 (2) The Technical Staff Report shall be sent at least twenty (20) days prior to the
 11 public hearing to all persons of record, including the municipality, and to all other persons who
 12 request, in writing, a copy of the report. A copy of the report shall be included in the record.

13 **Sec. 27-648.02. Zoning Classification in Annexed Areas; District Council Action.**

14 (a) At least twenty (20) days prior to the public hearing, the original copy of the
 15 application, plans, maps, specifications, Technical Staff Report, and all other data, materials, and
 16 record evidence (submitted to date) pertaining to the application shall be sent by the Planning
 17 Board to the District Council with a copy being retained by the Planning Board. At least twenty
 18 (20) days prior to the public hearing, the duplicate application file shall be available for public
 19 examination in the Office of the Planning Board and the Office of the Clerk. The Planning
 20 Board shall notify the property owner and the municipality when the record is transmitted.

21 (b) The hearing date shall be at least twenty (20), but not more than forty-five (45), days
 22 after the Technical Staff Report is provided to the District Council. The Clerk shall notify all
 23 persons of record, including the municipality, and all other persons who requested a copy of the
 24 Technical Staff Report, of the hearing date. Prior to or at the hearing, any person may submit
 25 written responses to the Technical Staff Report, together with any supporting material. The
 26 responses and attachments shall become a part of the record that will be forwarded to the District
 27 Council.

28 (c) Whenever the District Council conducts a public hearing, it shall do so in accordance
 29 with Part 3, Division 1, Subdivision 3, of this Subtitle. The District Council shall conduct the
 30 hearing within 45 days after receipt of the Technical Staff Report.

31 (d) In determining whether a zoning classification is substantially different, the District

1 Council shall consider whether the proposed zoning classification allows substantially more
 2 density, permits one or more uses which are not permitted in the zoning classification applicable
 3 to the property prior to annexation or permits more intensive uses.

4 (e) Prior to finding that the proposed initial or amended zoning classification for a land use
 5 is not substantially different from the use specified in the master plan, the District Council shall
 6 find that the proposed zoning classification for a land use is not substantially different from the
 7 specific recommendation of a General Plan map, Area Master Plan map, or Functional Plan and
 8 the principles and guidelines of the plan text which address the design and physical development
 9 of the property, the public facilities necessary to serve the proposed zoning classification use,
 10 and the impact which the proposed zoning classification use may have on the environment and
 11 surrounding properties.

12 (f) Prior to approving a proposed initial or amended zoning classification for a land use
 13 which is substantially different from the use specified in the master plan, the District Council
 14 shall find adequacy of public facilities to support the proposed zoning classification in
 15 accordance with the following criteria:

16 (1) Transportation facilities (including streets and public transit) (a) which are
 17 existing, (b) which are under construction, or (c) for which one hundred percent (100%) of the
 18 construction funds are allocated within the adopted County Capital Improvement Program,
 19 within the current State Consolidated Transportation Program, or will be provided by the
 20 applicant, will be adequate to carry the anticipated traffic generated by the development based on
 21 the maximum proposed density. The uses permitted in the proposed zoning classification will
 22 not generate traffic which would lower the level of service anticipated by the zoning
 23 classification and circulation systems shown on the approved General or Area Master Plans, or
 24 urban renewal plans;

25 (2) Other existing or planned private and public facilities which are existing, under
 26 construction, or for which construction funds are contained in the first six (6) years of the
 27 adopted County Capital Improvement Program (such as public schools, recreation areas, water
 28 and sewerage systems, libraries, and fire stations) will be adequate for the uses permitted in the
 29 proposed zoning classification, and such funds have been appropriated in an adopted operating
 30 budget or capital budget;

31 (3) Environmental relationships reflect compatibility between the proposed general

1 land use types, or if identified, the specific land use types, and surrounding land uses, so as to
 2 promote the health, safety, and welfare of the present and future inhabitants of the Regional
 3 District.

4 (4) Notwithstanding paragraphs (1) and (2), above, where the proposed initial or
 5 amended zoning classification anticipates a construction schedule of more than six (6) years,
 6 public facilities (existing or scheduled for construction within the first six (6) years) will
 7 probably be adequate to serve the development proposed to occur within the first six (6) years.
 8 The District Council shall also find that public facilities will be adequately supplied for the
 9 remainder of the project. In considering the probability of future public facilities construction,
 10 the Council may consider such things as existing plans for construction, budgetary constraints on
 11 providing public facilities, the public interest and public need for the particular development, the
 12 relationship of the development to public transportation, or any other matter that indicates that
 13 public or private funds will likely be expended for the necessary facilities.

14 (g) Within thirty (30) days after the hearing is concluded, the District Council shall
 15 determine that the establishment or amendment of the zoning classification either:

16 (1) permits a land use not substantially different from the use for the land specified in
 17 the current and duly approved General Plan, Area Master Plan, or Functional Plan, or

18 (2) permits a land use substantially different from the use for the land specified in the
 19 current and duly approved General Plan, Area Master Plan, or Functional Plan.

20 If the District Council determines that the land use is substantially different, the District Council
 21 shall also expressly approve or disapprove the zoning classification proposed by the
 22 municipality.

23 (h) The final decision by the District Council shall be based only on the evidence in the
 24 record, and shall be supported by specific written findings of basic facts and conclusions.

25 (i) The District Council shall send a copy of the final decision to all persons of record,
 26 including the municipality, and to all other persons who request, in writing, a copy of the
 27 decision.

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

Adopted this _____ day of _____, 1999.

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: _____
M. H. Jim Estepp
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

KEY:
Underscoring indicates language added to existing law.