

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2002 Legislative Session

Resolution No. CR-57-2002
Proposed by Council Member Hendershot
Introduced by Council Member Hendershot
Co-Sponsors _____
Date of Introduction September 17, 2002

RESOLUTION

1 A RESOLUTION concerning

2 Delegation of Zoning Enforcement Authority
3 to the City of College Park

4 For the purpose of approving the Memorandum of Understanding between the City of College
5 Park and the District Council regarding the enforcement of zoning laws within the corporate
6 limits of College Park.

7 WHEREAS, Section 8-112 of Article 28, Annotated Code of Maryland, as amended by
8 Chapter 408 of the Laws of Maryland of 2002, provides that a municipal corporation within
9 Prince George's County has concurrent jurisdiction with the County Council, sitting as the
10 District Council, to enforce zoning laws within its corporate limits; and

11 WHEREAS, prior to exercising the authority conferred by Section 8-112, the law requires
12 that the municipal corporation and the District Council enter into a written agreement concerning
13 the method by which the County will be advised of citations issued by a municipal inspector, the
14 responsibility of the municipal corporation or the County to prosecute violations cited by the
15 municipal corporation, the disposition of fines imposed for violations cited by the municipal
16 corporation, the resolution of disagreements between the municipal corporation and the County
17 about the interpretation of the zoning laws, and other manners that the District Council deems
18 necessary for the proper exercise of this authority; and

19 WHEREAS, the City of College Park has submitted a Memorandum of Understanding to
20 the District Council for its consideration, to address each requirement in Section 8-112, and the
21 Memorandum of Understanding is attached hereto as Attachment A; and

1
2 WHEREAS, the District Council has reviewed and concurs with the terms of the
3 Memorandum of Understanding.

4 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
5 County, Maryland, sitting as the District Council for that part of the Maryland-Washington
6 Regional District in Prince George's County, Maryland, that the Memorandum of Understanding
7 attached hereto as Attachment A is hereby approved, and the Chair is authorized to execute the
8 Memorandum of Understanding on behalf of the District Council.

9 BE IT FURTHER RESOLVED that this Resolution shall take effect on the date of its
10 adoption.

Adopted this 22nd day of October, 2002.

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: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding to Establish Zoning Enforcement Procedures in the City of College Park is made this _____ day of _____, 2002, by and between the City of College Park, Maryland, a municipal corporation of the State of Maryland, and 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.

W I T N E S S E T H

WHEREAS, Section 8-112 of Article 28, Annotated Code of Maryland, vests in each municipal corporation in the Maryland-Washington Regional District in Prince George's County concurrent jurisdiction with the County Council of Prince George's County, sitting as the District Council, to enforce zoning laws within the corporate limits of the municipal corporation; and

WHEREAS, the City of College Park, Maryland, wishes to assume the duty and exercise the power of enforcement of zoning laws within its corporate limits; and

WHEREAS, the District Council is willing to cooperate with the City in the enforcement of the County's zoning laws, subject to certain conditions; and

WHEREAS, the City will implement stated operating procedures, after District Council approval, for City enforcement of County zoning laws within the City, in accordance with the conditions; and

WHEREAS, the City represents that it has the resources to perform the obligations set forth in this Memorandum of Understanding.

NOW, THEREFORE, the parties mutually agree as follows:

1. City Powers and Duties; Definitions

(a) On December 1, 2002, the City will assume the duty and first exercise the power, pursuant to § 8-112(a) of the Regional District Act, as amended by Chapter 408 of the Laws of Maryland of 2002, and as authorized in this Memorandum of Understanding, to enforce the Prince George's County Zoning Ordinance within the corporate limits of the City of College Park. On and after that date, zoning violation cases within the City will be the primary duty and responsibility of City government, which will have all enforcement powers then possessed by County government under the Act.

(b) The City's assumption of zoning enforcement powers and duties shall not be deemed to diminish any City power or authority under §§ 8-112.1 or 8-112.3 of the Regional District Act, or any other law.

(c) In this Memorandum of Understanding, the following terms have the indicated meanings:

"Board" or "Board of Appeals" means the Board of Appeals of Prince George's County, sitting as the Board of Zoning Appeals.

"City" means the City of College Park, Maryland.

"Commission" or "Planning Commission" means the Maryland-National Capital Park and Planning Commission.

"County" means Prince George's County, Maryland.

"Department" means the County Department of Environmental Resources.

"District Council" or "Council" means the County Council of Prince George's County, Maryland, sitting as the legislative branch of County government or as the District Council, under the provisions of the Regional District Act.

"Memorandum" or "Memorandum of Understanding" means this Memorandum of Understanding between the City and the Council.

"Ordinance" or "Zoning Ordinance" means the Prince George's County Zoning Ordinance, set forth in Subtitle 27, Prince George's County Code, as amended from time to time.

"Planning Board" means the Planning Board of the Maryland-National Capital Park and Planning Commission.

(d) In this Memorandum, the words "will" and "shall" are mandatory.

2. City Procedures

(a) The City will implement Zoning Ordinance enforcement procedures conforming to the outline approved by the City Council. A copy of the approved outline is attached as Exhibit A and incorporated herein by reference. Under its delegated power, the City will enforce the Ordinance and require compliance on all properties within municipal boundaries, except for construction operations proceeding under a County grading or building permit and uses which are the subject of active use and occupancy permit applications on file with the Department.

(b) All City actions to enforce the Zoning Ordinance will be taken by City enforcement officers under the direction of the City Manager and City Attorney. The City Attorney is authorized to appear before the Board of Appeals, the Planning Board, the Council, and any State court to enforce the Ordinance and to defend claims, including appeals and requests for waivers or variances, which are related to Ordinance enforcement.

(c) The City is not authorized to issue building, grading, use and occupancy, or other permits now issued by the County Department of Environmental Resources, the City is not authorized to override Department interpretations of the Ordinance in issuing permits, and the City is not authorized to perform inspections for permit applications. The City may initiate and pursue enforcement action for any property which does not have the required permits for its use or uses.

(d) The City will file with the Department a copy of each citation or violation notice, within one business day after service on the person deemed in violation. Filing may be completed by delivery, by ordinary mail, or by other means agreed to by the City and the Department.

3. Zoning Ordinance Interpretations; Appeals

(a) The City shall enforce the provisions of the Zoning Ordinance in strict accordance with its language. If the City or the Department has a question about a City interpretation or enforcement practice, it may raise the matter with the City Attorney, who may consult with the County Attorney or the District Council's attorney. The City Attorney, County Attorney, and Council attorney shall consult from time to time, as needed, on Ordinance interpretations and enforcement practices.

(b) Nothing in this Memorandum authorizes the City to impose standards or requirements which the Zoning Ordinance does not establish or which the Department or other County zoning officials could not impose, nor may the City overrule prior Department or County interpretations of the Zoning Ordinance in particular cases.

(c) A City zoning citation or notice of violation may be appealed by the subject property's owner or by its occupant, where the occupant is responsible for the structure or use cited. All appeals of City citations or violation notices shall be to the Board of Appeals. The

procedures to be followed in appeals, including time requirements and other procedures, are the same as those in zoning appeals to the Board for properties outside the City.

4. City Access to Department Records

(a) The County shall establish a computer sign-on for a representative of the City's zoning enforcement office. The sign-on process will allow the City representative access, by a computer terminal in the Department's Community Standards Division offices in Largo, to permit information and to other property information and records in Department files. At its own expense, the City may if it chooses establish a direct link between its enforcement office and the Department's computerized files.

(b) The Department and the County will provide the City access as needed, on a case-by-case basis, to all property records related to the City's enforcement of the Zoning Ordinance.

5. Annual City Reports; Meetings; Zoning Liaisons

(a) Each year after 2002, on or before December 1, the City will provide to the Council and the Commission an annual report of the City's Zoning Ordinance enforcement activities for the prior 12 months. The report shall contain summaries of all activities and case information requested by the County or the Commission.

(b) At the request of the City, County, or Commission, meetings may be held from time to time to facilitate City enforcement activities, to allow City access to County data and records, to ensure uniform interpretation of the Zoning Ordinance and uniform enforcement practices by City and County, and to encourage City, County, and Commission cooperation in the enforcement and administration of the Zoning Ordinance.

(c) The City and County will each appoint one or more persons to act as zoning liaison, to facilitate prompt and effective communication concerning zoning enforcement matters.

6. City Indemnification

The parties agree that the City shall be responsible for carrying out the enforcement of the Zoning Ordinance within City boundaries, in strict accordance with the Prince George's County Zoning Ordinance. The City, to the extent permitted by law, shall indemnify and hold the County harmless from and against any and all actions, liabilities, claims, suits, damages, costs, or expenses, of whatever kind or nature, which may be brought or made against the

County or any County agency or department which the County must pay and incur by reason of, or in any manner resulting from, the City's performance or failure to perform any obligation under the law or the terms of this Memorandum of Understanding.

7. Severability

If any word, sentence, or part of this Memorandum of Understanding is determined by a court of competent jurisdiction to be invalid under any applicable law, such provision shall be deemed void, but the remainder of this Memorandum of Understanding shall continue in full force and effect, to the extent that it is consistent with the enforcement of the Prince George's County Zoning Ordinance and the Regional District Act. This Memorandum of Understanding shall be construed, interpreted, and enforced in accordance with the laws of the State of Maryland.

8. Notices

All notices made or required to be given pursuant to this Memorandum of Understanding shall be in writing and deemed to be duly served if and when mailed by registered mail, postage prepaid, return receipt requested, to the other party at the address set forth here or at such other address as the party may hereafter designate in writing. Notice to the District Council shall be deemed sufficient if addressed as follows:

Council Administrator
Prince George's County Council
County Administration Building
14741 Gov. Oden Bowie Drive
Upper Marlboro, MD 20772

A copy shall also be sent by first-class mail to the District Council's attorney.

Notices to the City shall be deemed sufficient if addressed as follows:

City Manager
City of College Park
4500 Knox Road
College Park, MD 20740

A copy shall also be sent by first-class mail to the City Attorney.

9. Duration of Agreement; Extensions; Notice of Termination

This Memorandum of Understanding shall be effective on the 1st day of December, 2002, and shall run from year to year thereafter. This Memorandum shall be extended automatically,

without further action, unless either party gives to the other notice of termination, in writing, not later than 120 days prior to the end of an annual term.

10. **Third Party Rights**

This Memorandum of Understanding and any documents executed in connection with it are intended only for the benefit of the parties, and no rights are intended or shall be deemed to be granted to any other persons.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed as of the date and year first written above.

CITY OF COLLEGE PARK, MARYLAND

ATTEST: _____

By: _____
Stephen A. Brayman, Mayor

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

ATTEST: _____

By: _____
Peter A. Shapiro, Chair