

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL  
2015 Legislative Session**

Bill No. CB-92-2015

Chapter No. 62

Proposed and Presented by Council Member Toles

Introduced by Council Members Toles, Lehman and Harrison

Co-Sponsors \_\_\_\_\_

Date of Introduction October 20, 2015

**ZONING BILL**

1 AN ORDINANCE concerning

2 Mixed Use and Commercial Zones – Table of Uses – Tobacco and Electronic Cigarette Shops  
3 For the purpose of providing a definition for tobacco shop and electronic cigarette shop uses in  
4 the Zoning Ordinance; amending the Mixed Use Zones Table of Uses to prohibit electronic  
5 cigarette shop uses in the M-U-TC (Mixed Use – Town Center) Zone; providing an amortization  
6 period by June 1, 2017, for electronic cigarette shop uses in the M-U-TC Zone that are not in  
7 compliance with the requirements of the Zoning Ordinance; amending the Commercial Zones  
8 Table of Uses and Mixed Use Table of Uses to permit new and existing tobacco shop and  
9 electronic cigarette shop uses by Special Exception in the C-A (Ancillary Commercial), C-S-C  
10 (Commercial Shopping Center), C-W (Commercial – Waterfront), C-R-C (Commercial Regional  
11 Center), M-X-T (Mixed Use – Transportation Oriented), M-X-C (Mixed Use – Community), and  
12 M-U-I (Mixed Use – Infill) Zones; providing approval criteria for approval of Special  
13 Exceptions for tobacco shop and electronic cigarette shop uses; and providing that Special  
14 Exception applications for tobacco shop or electronic cigarette shop uses legally existing on  
15 January 1, 2016, must be accepted for filing by the Planning Board on or before June 1, 2017.

16 BY repealing and reenacting with amendments:

17 Sections 27-107.01, 27-461, and 27-547,

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

19 being also

20 SUBTITLE 27. ZONING.

The Prince George’s County Code  
(2011 Edition; 2014 Supplement).

BY repealing and reenacting, without amendments:

Section 27-546.17,  
The Zoning Ordinance of Prince George's County, Maryland,  
being also  
SUBTITLE 27. ZONING.

The Prince George’s County Code  
(2011 Edition; 2014 Supplement).

BY adding:

Section 27-415.01,  
The Zoning Ordinance of Prince George’s County, Maryland,  
being also  
SUBTITLE 27. ZONING.

The Prince George’s County Code  
(2011 Edition; 2014 Supplement).

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 27-107.01, 27-461, and 27-547 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 is hereby repealed and reenacted with the following amendments:

**PART 2. GENERAL.**

**DIVISION 1. DEFINITIONS.**

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

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

\* \* \* \* \*

(81.1) **[Reserved.]**

[(81.2)]**Eating or Drinking Establishment:** An establishment that provides food or beverages for consumption on or off premise, which may be developed freestanding, on a pad site or attached to another building, or located within another building or located within a group

1 of buildings, which may include a drive-through service, carryout, outdoor eating, music of any  
2 kind, patron dancing, or entertainment, excluding adult entertainment uses.

3 (81.2) **Electronic Cigarette Shop:** A retail store where the primary “Use” is the retail  
4 sale of, for off-site consumption, electronic cigarettes, or any electronic device that can be used  
5 to deliver nicotine or other substance to the person inhaling from the device, including, but not  
6 limited to, an electronic cigarette, cigar, cigarillo, or pipe, any cartridge or other component of  
7 the device, or any related electronic cigarette product.

8 \* \* \* \* \*

9 (236) **Theatre, Drive-In:** An outdoor facility where motion pictures are shown to an  
10 audience parked in private “Passenger Vehicles.”

11 (236.1) **Tobacco Shop:** A retail store where the primary “Use” is the retail sale of, for  
12 off-site consumption, tobacco products, tobacco smoking accessories, and related tobacco items.

13 (237) **Tourist Cabin Camp:** An area of land upon which are located one (1) or more  
14 cottages, cabins, or "Mobile Homes" used to accommodate transient guests. A “Mobile Home  
15 Community” or “Recreational Campground” is not a “Tourist Cabin Camp.”

16 \* \* \* \* \*

**SUBTITLE 27. ZONING.**  
**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
<b>(1) COMMERCIAL:</b>						
* * * * *	*	*	*	*	*	*
<b>(E) Trade (Generally Retail):</b>						
* * * * *	*	*	*	*	*	*
Newspaper [,] <u>or</u> magazine [, or tobacco] shop	X	P	P	PA	X	P
* * * * *	*	*	*	*	*	*
<u>Tobacco shop or electronic cigarette shop</u>	<u>X</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>X</u>	<u>SE</u>
* * * * *	*	*	*	*	*	*

**PART 10. MIXED USE ZONES.  
DIVISION 3. USES PERMITTED.**

**Sec. 27-547. Uses permitted.**

(a) No use shall be allowed in the Mixed Use Zones, except as provided for in the Table of Uses. In the table, the following applies:

\* \* \* \* \*

USE	ZONE	
	M-X-T	M-X-C
<b>(1) COMMERCIAL:</b>		
* * * * *	*	*
Book (except adult book store), camera, gift, jewelry, music, souvenir, or other specialty store not specifically listed, <u>excluding tobacco shops or electronic cigarette shops.</u>	P	P
Buying of items within guest rooms or vehicles, pursuant to Section 27-115(a)(2)	X	X
* * * * *	*	*
<u>Tobacco shop or electronic cigarette shop</u>	<u>SE</u>	<u>SE</u>
* * * * *	*	*

**(c) TABLE OF USES FOR M-U-TC ZONE.**

<b>(E) Trade (Generally Retail):</b>	
* * * * *	*
Book (except adult bookstore), camera, gift, jewelry, music, <u>or</u> souvenir, or other-specialty store not specifically listed, <u>excluding tobacco or electronic cigarette shops</u>	P <sup>5</sup>
* * * * *	*
Newspaper [,] <u>or</u> magazine [,] <u>or</u> tobacco] shop	P
* * * * *	*

\* \* \* \* \*

5 Uses that included activity that meets the definition of an “electronic cigarette shop” in existence on January 1, 2016, in the M-U-TC Zone may not be certified as nonconforming uses and must cease operations on or before June 1, 2017.

SECTION 2. BE IT FURTHER ENACTED that Section 27-546.17 of the Zoning Ordinance be and the same is hereby repealed and reenacted, without amendments:

**SUBTITLE 27. ZONING.**

**PART 10. MIXED USE ZONES.**

**DIVISION 2. SPECIFIC MIXED USE ZONES.**

**SUBDIVISION 4. M-U-I ZONE (MIXED USE – INFILL).**

**Sec. 27-546.17. Uses.**

(a) All uses permitted by right or by Special Exception in the C-S-C Zone, as provided in Section 27-461(b), are permitted by right in the M-U-I Zone, except as follows:

(1) For the uses in Sections 27-461(b)(3), Miscellaneous, and 27-461(b)(6), Residential/Lodging, the uses allowed are those permitted in Section 27-441(b)(3) and (6) for the R-18 Zone, except that hotel and motel uses are permitted as in the C-S-C Zone.

(2) Use restrictions may be imposed on a property when the M-U-I Zone is approved, whether the approval is in a Sectional Map Amendment, a T-D-O Zone map amendment, a D-D-O Zone map amendment, a case involving property owned by a municipality or the Prince George’s County Redevelopment Authority, or an individual site plan case. Use restrictions in conditions imposed at rezoning may limit or prohibit uses otherwise allowed in the M-U-I Zone. If use restrictions are imposed in an individual map amendment or site plan case, the District Council and the owner shall follow the conditional zoning procedure in Part 3, Division 2.

(b) Residential and commercial uses may be placed with a horizontal or vertical mix on property in the M-U-I Zone, subject to approval of a Detailed Site Plan.

SECTION 3. BE IT FURTHER ENACTED that Section 27-415.01 of the Zoning Ordinance be and the same is hereby added:

**SUBTITLE 27. ZONING.**

**PART 4. SPECIAL EXCEPTIONS.**

**DIVISION 3. ADDITIONAL REQUIREMENTS FOR SPECIFIC SPECIAL EXCEPTIONS.**

**Sec. 27-415.01. Tobacco shops or electronic cigarette shops.**

(a) Tobacco shops or electronic cigarette shops may be permitted by Special Exception, subject to the following:

(1) The structure in which the use is proposed shall be located at least three hundred (300) feet from any school, library, park, recreational facility, and historic site, resource, or

1 district identified on any applicable Historic Site and District Plan, a National Register Site, or an  
 2 Historic District.

3 (2) In its final decision to approve a Special Exception for the use, the Council may  
 4 impose other reasonable requirements deemed necessary to safeguard the health, safety, morals,  
 5 and general welfare of the community, taking into account the character of surrounding  
 6 properties and the general neighborhood, and any other uses on the subject property.

7 (3) No Special Exception shall be permitted for a tobacco shop or electronic cigarette  
 8 shop located within 2,000 feet of another tobacco shop or electronic cigarette shop.

9 SECTION 4. BE IT FURTHER ENACTED uses that included activity that meets the  
 10 definition of an “electronic cigarette shop” in existence on January 1, 2016, in the M-U-TC Zone  
 11 may not be certified as nonconforming uses and must cease operations on or before June 1, 2017.

12 SECTION 5. BE IT FURTHER ENACTED that an existing tobacco shop or electronic  
 13 cigarette shop in the C-A, C-S-C, C-W, C-R-C, M-X-T, M-X-C, and M-U-I Zones as of January  
 14 1, 2016, with a valid use and occupancy permit for a tobacco shop, or a use that included activity  
 15 that meets the definition of an “electronic cigarette shop” may continue upon approval of a  
 16 Special Exception in accordance with Part 4 of this Subtitle. Applications for tobacco shop  
 17 and/or electronic cigarette shop uses shall be accepted for filing by the Planning Board on or  
 18 before June 1, 2017.

19 SECTION 6. BE IT FURTHER ENACTED that the provisions of this Ordinance are  
 20 hereby declared to be severable; and, in the event that any section, subsection, paragraph,  
 21 subparagraph, sentence, clause, phrase, or word of this Ordinance is declared invalid or  
 22 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall  
 23 not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs,  
 24 subsections, or sections of this Ordinance, since the same would have been enacted without the  
 25 incorporation in this Ordinance of any such invalid or unconstitutional word, phrase, clause,  
 26 sentence, paragraph, subparagraph, subsection, or section.

27

1 SECTION 7. BE IT FURTHER ENACTED that this Ordinance shall take effect on the  
2 date of its adoption.

Adopted this 17th day of November, 2015.

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: \_\_\_\_\_  
Mel Franklin  
Chairman

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.