

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2017 Legislative Session

Bill No. _____ CB-30-2017 _____

Chapter No. _____

Proposed and Presented by _____ Council Members Glaros and Harrison _____

Introduced by _____ Council Members Glaros, Harrison, Toles, Lehman, Turner and Davis _____

Co-Sponsors _____

Date of Introduction _____ April 25, 2017 _____

ZONING BILL

1 AN ORDINANCE concerning

2 Prohibited Commercial Use of Residential Property

3 For the purpose of restricting certain commercial uses in Residential Zone property not otherwise
 4 expressly provided for in Section 27-441.

5 BY adding:

6 Section 27-441.01,

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 (2015 Edition)

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 Section 27-441.01 of the Zoning Ordinance of
 15 Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code,
 16 be and the same is hereby added:

17 **SUBTITLE 27. ZONING.**

18 **PART 5. RESIDENTIAL ZONES.**

19 **DIVISION 3. USES PERMITTED (RESIDENTIAL ZONES).**

20 **Sec. 27-441.01. Prohibited Commercial Use of Residential Property.**

1 (a) The Zoning Ordinance generally restricts residential properties to residential and
 2 compatible accessory uses. Commercial uses on residential properties are limited to those
 3 expressly permitted by Sec. 27-441. While residents are entitled to enjoy the use of their
 4 property consistent with the applicable regulations, in order to ensure and protect the enjoyment,
 5 character and value of residential neighborhoods and buildings, the provisions herein are
 6 established.

7 (b) The District Council finds the increasing use of residential properties for parties,
 8 events, assemblies, or gatherings open to the public in return for payment of a cover charge or
 9 the sale of goods or services is adversely impacting the surrounding residential neighborhoods
 10 with increasing criminal activity, noise, and traffic, and by inhibiting ingress and egress for
 11 vehicles, including emergency vehicles, in these residential neighborhoods. The District Council
 12 is charged with balancing the rights of its citizens under the Federal and State constitutions to
 13 peaceful assembly, free expression, religious freedom, and other rights with the right of quiet
 14 enjoyment and protection of the inherent characteristics of property in dedicated Residential
 15 Zones.

16 (c) Prohibited commercial use of residential property in this section shall mean any
 17 occupancy of residential property for the purpose of holding commercial parties, events,
 18 assemblies, or gatherings on the premises.

19 (d) Use of residential property shall be deemed commercial and not permitted, except as
 20 otherwise provided for in the Zoning Ordinance, if:

21 (1) The owner, lessee, resident, or any occupier of the property receives payment or
 22 other consideration, e.g., goods, property or services, in excess of One Hundred Dollars
 23 (\$100.00) per party or event for the commercial use of the property, including payment by any
 24 means, direct or indirect, including security deposits;

25 (2) Goods, property, or services are offered for sale or sold on or at the property,
 26 during use of the property; however, this subsection shall not apply if:

27 (A) All goods, property, or services offered are donated to or for charitable,
 28 religious or political organizations or candidates for public office, that have received 501(c)(3) or
 29 other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance
 30 with applicable election laws;

31 (B) All of the proceeds from sales are directly payable and paid to charitable,

1 religious or political organizations or candidates for public office, that have received 501(c)(3) or
 2 other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance
 3 with applicable election laws. An organization or candidate may reimburse donors for goods or
 4 property donated; or

5 (C) The sale is of the property itself or personal property of the owner, lessee,
 6 occupier, or resident (excluding personal property owned by a business).

7 (3) Use of the property by attendees requires an admittance or membership fee or a
 8 donation, excluding donations directly payable and paid by attendees to charitable, religious or
 9 political organizations or candidates for public office, that have received 501(c)(3) or other tax
 10 exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with
 11 applicable election laws; or

12 (4) There is any advertising that promotes the occupancy or use of the residential
 13 property for the purpose of holding commercial parties, events, assemblies, or gatherings.
 14 Advertising includes, but is not limited to, traditional media, newspaper, magazines, flyers,
 15 handbills, television commercial, radio advertisement, outdoor advertising, direct mail, blogs or
 16 social media, including electronic mail, websites or text messages.

17 (e) Exemptions. Notwithstanding the previous subsection, this Section does not apply to:

18 (1) The open showing of residential property to the public by a licensed real estate
 19 agent, the owner, lessee, or resident, for the purpose of promoting the sale or lease of the subject
 20 property, provided that no sale or display of goods, property or services by sponsoring businesses
 21 unrelated to the sale or lease of the property transpires, or:

22 (2) Any use in a mixed use zone.

23 (f) Any police officer or inspector may enforce this Section by:

24 (1) Issuing an immediate order to cease and desist the prospectively planned
 25 prohibited activity to the owner, lessee, resident or occupier of the property, and posting the front
 26 door of the property, subject to the right of any aggrieved party within five (5) business days to
 27 request an expedited hearing before the Chief of Police or the Director of the Prince George's
 28 County Department of Permitting, Inspections and Enforcement, or their respective designees, of
 29 the cease and desist order issued by the officer or inspector; or

30 (2) Issuing a Five Hundred Dollar (\$500) civil fine for each offense. No violation
 31 notice need be issued prior to the issuance of the civil citation, notwithstanding any other

provision of the Zoning Ordinance or County Code to the contrary.

(g) Any decision of the Chief of Police or the Director of the Prince George's County Department of Permitting, Inspections and Enforcement, or their respective designees, issued under this Section may be appealed by an aggrieved party within five (5) business days of receipt of the decision to the Board of Appeals.

(h) Any person who violates the prescriptions of this Section shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or incarceration up to six (6) months in jail, or both such fine and imprisonment.

SECTION 2. BE IT FURTHER ENACTED that the provisions of this Ordinance are hereby declared to be severable; and, in the event that any Section, Subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, Subsections, or Sections of this Ordinance, since the same would have been enacted without the incorporation in this Ordinance of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, Subsection, or Section.

SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect on the date of its adoption.

Adopted this _____ day of _____, 2017.

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: _____
Derrick Leon Davis
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.