

HOUSE BILL 1104

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By: **Prince George's County Delegation and Montgomery County Delegation**
Introduced and read first time: February 7, 2024
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Zoning and Land Use – Fairness in Zoning**

3 **PG/MC 106–24**

4 FOR the purpose of providing that, in Prince George's County, the planning board's
5 authority over zoning and subdivision matters is not exclusive and may be subject to
6 review by the district council under certain circumstances; authorizing the district
7 council in Prince George's County to adopt and amend zoning law procedures for
8 certain zoning decisions; providing that in the regional district in Prince George's
9 County, certain zoning powers granted to a planning commission or board of appeals
10 shall be construed as vested exclusively in and may be exercised only by the district
11 council; altering the standing requirements for requesting the district council in
12 Prince George's County to review the decision of the zoning hearing examiner or the
13 county planning board under certain circumstances; altering, in Prince George's
14 County, the standing requirements for filing a request for judicial review of certain
15 decisions of a board of appeals to the circuit court; altering, in Prince George's
16 County, the time frame within which a zoning hearing examiner shall take action on
17 a certain zoning matter remanded back from the district council; providing that a
18 certain approval shall expire at a certain time; prohibiting, in Prince George's
19 County, the district council from amending the zoning laws or zoning classification
20 of certain property in a certain manner; and generally relating to zoning and
21 planning powers in the Maryland–Washington Regional District in Prince George's
22 County.

23 BY repealing and reenacting, with amendments,
24 Article – Land Use
25 Section 20–202(a), 22–104, 22–120, and 25–213
26 Annotated Code of Maryland
27 (2012 Volume and 2023 Supplement)

28 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Land Use
 2 Section 25–101
 3 Annotated Code of Maryland
 4 (2012 Volume and 2023 Supplement)

5 BY repealing
 6 Article – Land Use
 7 Section 25–212
 8 Annotated Code of Maryland
 9 (2012 Volume and 2023 Supplement)

10 BY adding to
 11 Article – Land Use
 12 Section 25–212, 25–214, and 25–215
 13 Annotated Code of Maryland
 14 (2012 Volume and 2023 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 16 That the Laws of Maryland read as follows:

17 **Article – Land Use**

18 20–202.

19 (a) (1) **(I)** Subject to **SUBPARAGRAPH (II) OF THIS PARAGRAPH AND**
 20 paragraph (2) of this subsection, a county planning board:

21 [(i)] **1.** is responsible for planning, subdivision, and zoning
 22 functions that are primarily local in scope; and

23 [(ii)] **2.** shall exercise, within the county planning board’s
 24 jurisdiction, the following powers:

25 [1.] **A.** planning;

26 [2.] **B.** zoning;

27 [3.] **C.** subdivision;

28 [4.] **D.** assignment of street names and house numbers;

29 and

30 [5.] **E.** any related matter.

31 **(II) 1. IN PRINCE GEORGE’S COUNTY:**

1 **A. THE AUTHORITY OF THE COUNTY PLANNING BOARD**
2 **OVER ZONING AND SUBDIVISION MATTERS, BOTH LOCAL AND GENERAL, IS NOT**
3 **EXCLUSIVE AND SHALL BE SUBJECT TO REVIEW AND FINAL ACTION BY THE DISTRICT**
4 **COUNCIL; BUT**

5 **B. ANY REVIEW AND FINAL ACTION IS LIMITED TO THE**
6 **MATTER THAT IS BROUGHT BEFORE THE DISTRICT COUNCIL.**

7 **2. NOTHING IN THIS SUBPARAGRAPH AUTHORIZES THE**
8 **DISTRICT COUNCIL TO REVIEW MATTERS THAT ARE OTHERWISE BEYOND ITS**
9 **JURISDICTION AS PROVIDED IN THIS ARTICLE.**

10 (2) The functions under paragraph (1) of this subsection do not include the
11 regional planning functions of the Commission relating to or affecting the regional district
12 as a planning unit.

13 22–104.

14 (a) The Montgomery County district council or the Prince George’s County
15 district council, in accordance with the requirements of this division as to the portion of the
16 regional district located in the respective county, may:

17 (1) by local law adopt and amend the text of the zoning law for that county;
18 and

19 (2) by local law adopt and amend any map accompanying the text of the
20 zoning law for that county.

21 **(b) IN PRINCE GEORGE’S COUNTY, THE DISTRICT COUNCIL MAY BY LOCAL**
22 **LAW ADOPT AND AMEND ZONING LAW PROCEDURES FOR ZONING DECISIONS BY THE**
23 **PLANNING BOARD AND THE DISTRICT COUNCIL.**

24 **(c)** The local law may regulate:

25 (1) (i) the location, height, bulk, and size of each building or other
26 structure, and any unit in the building or structure;

27 (ii) building lines;

28 (iii) minimum frontage;

29 (iv) the depth and area of each lot; and

30 (v) the percentage of a lot that may be occupied;

31 (2) the size of lots, yards, courts, and other open spaces;

1 (3) the construction of temporary stands and structures;

2 (4) the density and distribution of population;

3 (5) the location and uses of buildings and structures and any units in those
4 buildings and structures for:

5 (i) trade;

6 (ii) industry;

7 (iii) residential purposes;

8 (iv) recreation;

9 (v) agriculture;

10 (vi) public activities; and

11 (vii) other purposes; and

12 (6) the uses of land, including surface, subsurface, and air rights for the
13 land, for building or for any of the purposes described in item (5) of this subsection.

14 [(c)] (D) The exercise of authority by a district council under this section is
15 limited by §§ 17–402 and 25–211 of this article.

16 22–120.

17 (A) Within the regional district **IN MONTGOMERY COUNTY**, any power granted
18 to a planning commission or board of appeals under Division I of this article shall be
19 construed as vested exclusively in and may be exercised only by:

20 (1) the Commission; or

21 (2) the board of appeals created or authorized by this title.

22 (B) **WITHIN THE REGIONAL DISTRICT IN PRINCE GEORGE’S COUNTY, ANY**
23 **ZONING POWER GRANTED TO A PLANNING COMMISSION OR BOARD OF APPEALS**
24 **UNDER DIVISION I OF THIS ARTICLE SHALL BE CONSTRUED AS VESTED**
25 **EXCLUSIVELY IN AND MAY BE EXERCISED ONLY BY THE DISTRICT COUNCIL.**

26 25–101.

27 This title applies only in Prince George’s County.

1 [25–212.

2 In Prince George’s County, a person may make a request to the district council for
3 the review of a decision of the zoning hearing examiner or the county planning board only
4 if:

5 (1) the person is an aggrieved person that appeared at the hearing before
6 the zoning hearing examiner or county planning board in person, by an attorney, or in
7 writing; and

8 (2) the review is expressly authorized under this division.]

9 **25–212.**

10 **NOTWITHSTANDING ANY OTHER LAW, A PERSON MAY FILE A REQUEST FOR**
11 **JUDICIAL REVIEW OF A DECISION OF THE BOARD OF APPEALS TO THE CIRCUIT**
12 **COURT ONLY IF:**

13 (1) **THE PERSON IS A PARTY TO, OR DIRECTLY AFFECTED BY THE**
14 **DECISION OF THE BOARD OF APPEALS;**

15 (2) **THE PERSON RESIDES WITHIN 1 MILE OF THE PROPERTY THAT IS**
16 **THE SUBJECT OF THE DECISION; OR**

17 (3) **THE PERSON RESIDES IN THE MUNICIPAL CORPORATION WHERE**
18 **THE PROPERTY THAT IS THE SUBJECT OF THE DECISION IS LOCATED.**

19 **25–213.**

20 In Prince George’s County, when the district council is hearing a zoning matter that
21 has been appealed from a decision of a zoning hearing examiner, the district council:

22 (1) may remand the zoning matter back to the zoning hearing examiner
23 [only one time]; and

24 (2) shall specify that the zoning hearing examiner take action within [30]
25 **100** days after the matter is remanded [and relevant information is received from the
26 applicant or the district council].

27 **25–214.**

28 (A) **IN THIS SECTION, “APPROVAL” INCLUDES:**

1 **(1) AN ACTION BY THE PLANNING BOARD, DISTRICT COUNCIL, OR**
 2 **OTHER COUNTY PERMITTING DEPARTMENT ON AN APPLICATION FOR:**

3 **(I) A ZONING SPECIAL EXCEPTION;**

4 **(II) A ZONING VARIANCE; OR**

5 **(III) A CONDITIONAL ZONING USE;**

6 **(2) A DEVELOPMENT OR SUBDIVISION APPROVAL REQUIRED TO BE**
 7 **OBTAINED FROM THE PLANNING BOARD OR DISTRICT COUNCIL, INCLUDING:**

8 **(I) A SITE PLAN APPROVAL;**

9 **(II) A DEVELOPMENT PLAN APPROVAL; OR**

10 **(III) ANY OTHER DEVELOPMENT OR SUBDIVISION APPROVAL**
 11 **AUTHORIZED OR REQUIRED BY THIS ARTICLE OR LOCAL LAW; OR**

12 **(3) ANY OTHER APPROVAL BY, OR AGREEMENT WITH, THE COUNTY**
 13 **PLANNING BOARD OR DISTRICT COUNCIL THAT IS ASSOCIATED WITH AN**
 14 **APPLICATION FOR DEVELOPMENT OR SUBDIVISION APPROVAL.**

15 **(B) BEGINNING WITH APPROVALS ISSUED ON JULY 1, 2023, AN APPROVAL**
 16 **SHALL EXPIRE ON THE LATER OF THE PERIOD ESTABLISHED BY THE COUNTY OR 10**
 17 **YEARS AFTER THE DATE THE APPROVAL WAS ISSUED.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 19 as follows:

20 **Article – Land Use**

21 **25–215.**

22 **NOTWITHSTANDING ANY OTHER LAW, THE DISTRICT COUNCIL MAY NOT**
 23 **AMEND THE TEXT OR MAP OF THE ZONING LAW OR THE ZONING CLASSIFICATION OF**
 24 **PROPERTY THAT IS CURRENTLY USED AS, OR ITS IMMEDIATE FORMER USE WAS AS,**
 25 **AN AIRPORT IN ORDER TO PERMIT THE CONSTRUCTION OF MULTIFAMILY**
 26 **RESIDENTIAL DWELLINGS ON THE PROPERTY.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
 28 construed to apply only prospectively and may not be applied or interpreted to have any
 29 effect on or application to any property for which a building permit to construct multifamily
 30 residential dwellings has been issued before the effective date of this Act.

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2024.