

HOUSE BILL 1266

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HB 1104/24 – ENT

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By: **Montgomery County Delegation and Prince George's County Delegation**
Introduced and read first time: February 7, 2025
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

4 **MC/PG 117–25**

5 FOR the purpose of providing that, in Prince George's County, the planning board's
6 authority over zoning and subdivision matters is not exclusive and may be subject to
7 review by the district council under certain circumstances; altering the jurisdiction
8 of the Prince George's County Planning Board over certain local functions and
9 certain mandatory referrals; altering, in Prince George's County, the standing
10 requirements for filing a request for judicial review of certain decisions of the district
11 council to the circuit court; altering the standing requirements for filing an appeal
12 from a certain judgment of the circuit court to the Appellate Court of Maryland;
13 prohibiting a member of the district council from voting on an appeal to the Appellate
14 Court of Maryland under certain circumstances; repealing the standing
15 requirements for requesting the district council in Prince George's County to review
16 the decision of the zoning hearing examiner or the county planning board under
17 certain circumstances; altering, in Prince George's County, the time frame within
18 which a zoning hearing examiner shall take action on a certain zoning matter
19 remanded back from the district council; providing that a certain approval shall
20 expire at a certain time; prohibiting, in Prince George's County, the district council
21 from amending the zoning laws or zoning classification of certain property in a
22 certain manner; and generally relating to zoning and planning powers in the
23 Maryland–Washington Regional District in Prince George's County.

24 BY repealing and reenacting, with amendments,
25 Article – Land Use
26 Section 20–202(a) and (b), 20–302, 22–407(a) and (f), and 25–213
27 Annotated Code of Maryland
28 (2012 Volume and 2024 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, without amendments,

Article – Land Use

Section 22–406 and 25–101

Annotated Code of Maryland

(2012 Volume and 2024 Supplement)

BY repealing

Article – Land Use

Section 25–212

Annotated Code of Maryland

(2012 Volume and 2024 Supplement)

BY adding to

Article – Land Use

Section 25–214 and 25–215

Annotated Code of Maryland

(2012 Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Land Use

20–202.

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

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

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

[1.] A. planning;

[2.] B. zoning;

[3.] C. subdivision;

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

and

[5.] E. any related matter.

(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 (b) (1) [A county planning board] **THE MONTGOMERY COUNTY PLANNING**
14 **BOARD** has exclusive jurisdiction over:

15 (i) local functions, including:

- 16 1. the administration of subdivision regulations;
- 17 2. the preparation and adoption of recommendations to the
18 district council with respect to zoning map amendments; and
- 19 3. the assignment of street names and house numbers in the
20 regional district; and

21 (ii) mandatory referrals made in accordance with Subtitle 3, Part I
22 of this title by:

23 1. the [county planning board's respective county]
24 **MONTGOMERY COUNTY** government or any unit of the county government; **OR**

25 2. **THE COUNTY BOARD OF EDUCATION, A MUNICIPAL**
26 **CORPORATION OR SPECIAL TAXING DISTRICT, OR A PUBLICLY OWNED OR**
27 **PRIVATELY OWNED PUBLIC UTILITY.**

28 (2) The [Montgomery County Planning Board has exclusive jurisdiction
29 over a mandatory referral made in accordance with Subtitle 3, Part I of this title by the
30 County Board of Education, a municipal corporation or special taxing district, or a publicly
31 owned or privately owned public utility] **PRINCE GEORGE'S COUNTY PLANNING**
32 **BOARD HAS JURISDICTION OVER:**

(I) LOCAL FUNCTIONS, INCLUDING:

1. THE ADMINISTRATION OF SUBDIVISION REGULATIONS;

2. THE PREPARATION AND ADOPTION OF RECOMMENDATIONS TO THE DISTRICT COUNCIL WITH RESPECT TO ZONING MAP AMENDMENTS, DETAILED SITE PLANS, COMPREHENSIVE DESIGN PLANS, AND SPECIFIC DESIGN PLANS; AND

3. THE ASSIGNMENT OF STREET NAMES AND HOUSE NUMBERS IN THE REGIONAL DISTRICT; AND

(II) MANDATORY REFERRALS MADE IN ACCORDANCE WITH SUBTITLE 3, PART I OF THIS TITLE BY THE PRINCE GEORGE'S COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY GOVERNMENT.

20-302.

(a) The Commission has exclusive jurisdiction over mandatory referrals made under this part from the United States or the State, or any unit of the United States or the State.

(b) [A county planning board] **THE PRINCE GEORGE'S COUNTY PLANNING BOARD** has [exclusive] jurisdiction over a mandatory referral under this part by the [county planning board's respective] **PRINCE GEORGE'S COUNTY PLANNING BOARD'S** county government or any unit of the county government.

(c) The Montgomery County Planning Board has exclusive jurisdiction over a mandatory referral under this part by:

(1) **THE MONTGOMERY COUNTY PLANNING BOARD'S COUNTY GOVERNMENT OR ANY UNIT OF THE COUNTY GOVERNMENT; AND**

(2) the county board of education, a municipal corporation or special taxing district, or a publicly owned or privately owned public utility.

22-406.

This part applies only in Prince George's County.

22-407.

(a) (1) Judicial review of any final decision of the district council, including an individual map amendment or a sectional map amendment, may be requested by [any person or entity that is aggrieved by the decision of the district council and is]:

(i) [a municipal corporation, governed special taxing district, or person in the county] **A PERSON OR MUNICIPAL CORPORATION THAT APPEARED AT THE HEARING IN PERSON, BY ATTORNEY, OR IN WRITING;**

(ii) **A PERSON WHO RESIDES WITHIN 1 MILE OF THE PROPERTY THAT IS THE SUBJECT OF THE DECISION OR RESIDES IN THE MUNICIPAL CORPORATION WHERE THE PROPERTY THAT IS THE SUBJECT OF THE DECISION IS LOCATED; OR**

(III) a civic or homeowners association representing property owners affected by the final decision[;

(iii) the owner of the property that is the subject of the decision; or

(iv) the applicant].

(2) A petition for judicial review under this subsection shall be filed in the Circuit Court for Prince George's County within 30 days after service of the final decision by the district council.

(3) Copies of the petition shall be served on the district council and all other persons of record in accordance with the Maryland Rules.

(4) The filing of the petition does not stay enforcement of the final decision of the district council, but the district council may stay enforcement of its final decision or the reviewing court may order a stay on terms it considers proper.

(f) [(1) A final judgment of the circuit court may be appealed to the Appellate Court of Maryland by:

(i) the district council;

(ii) the applicant; or

(iii) any aggrieved party to the circuit court proceedings.]

(1) ANY PARTY TO THE PROCEEDING IN THE CIRCUIT COURT MAY APPEAL THE FINAL JUDGMENT OF THE CIRCUIT COURT TO THE APPELLATE COURT OF MARYLAND.

(2) (I) [Each] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH** member of the district council is entitled to vote on whether the district council shall appeal to the Appellate Court of Maryland, regardless of whether the member participated in the hearing on the matter or in the decision.

(II) **A MEMBER OF THE DISTRICT COUNCIL MAY NOT VOTE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE MEMBER PREVIOUSLY RECUSED THEMSELVES FROM PARTICIPATING IN THE HEARING ON THE MATTER OR IN THE DECISION.**

25–101.

This title applies only in Prince George’s County.

[25–212.

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

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

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

25–213.

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

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

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

25–214.

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

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

(I) A ZONING SPECIAL EXCEPTION;

(II) A ZONING VARIANCE; OR

(III) A CONDITIONAL ZONING USE;

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

(I) A SITE PLAN APPROVAL;

(II) A DEVELOPMENT PLAN APPROVAL; OR

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

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

(B) BEGINNING WITH APPROVALS ISSUED ON JULY 1, 2025, AN APPROVAL SHALL EXPIRE ON THE LATER OF THE PERIOD ESTABLISHED BY THE COUNTY OR 10 YEARS AFTER THE DATE THE APPROVAL WAS ISSUED.

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

Article – Land Use

25–215.

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

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

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that § 22–202(b)(2) of the Land Use Article, as enacted by Section 1 of this Act,

1 abrogate the holding by the Supreme Court of Maryland in County Council of Prince
2 George's County v. Zimmer Development Company, 444 Md. 490 (2015).

3 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2025.