

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 8

Bill No. 25 -2012

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the process for comprehensive zoning; defining certain terms; clarifying the County Council authority related to comprehensive zoning, clarifying the purpose of zoning districts and zoning regulations; requiring certain notice of a comprehensive zoning plan; requiring certain procedures before the Planning Board and the County Council; allowing for the consideration of certain requests; making certain technical corrections; and generally related to comprehensive zoning in Howard County.

Introduced and read first time _____, 2012. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2012.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2012 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2012 at ____ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2012

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 *By amending:*

- 5 1. *Title 16- Planning, Zoning and Subdivisions and Land Development Regulations.*
6 *Section 16.200. Zoning authority; definitions; short title.*
7
- 8 2. *Title 16- Planning, Zoning and Subdivisions and Land Development Regulations.*
9 *Section 16.201. Policy.*
10
- 11 3. *Planning, Zoning and Subdivisions and Land Development Regulations.*
12 *Section 16.202. Purpose.*
13
- 14 4. *Planning, Zoning and Subdivisions and Land Development Regulations.*
15 *Section 16.203. Addition of zoning districts and zoning regulations by*
16 *comprehensive rezoning.*
17
- 18 5. *Title 16- Planning, Zoning and Subdivisions and Land Development Regulations.*
19 *Section 16.900. - Planning Board*
20 *Subsection (i)*
21

22 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

23 **Subtitle 2. Zoning.**

24
25 **Section 16.200. Zoning authority; definitions; short title.**

26 (a) *Zoning Authority.* This subtitle provides that the Zoning Authority of Howard County for
27 comprehensive zoning and for amendments to the text of the Howard County regulations shall be
28 the County Council of Howard County and the Zoning Authority of Howard County for
29 piecemeal zoning map amendments and decisions on development plans shall be the Howard

1 County Zoning Board. The Howard County Council, acting as a legislative body, reserves unto
2 itself the authority to grant variances from the strict application of the zoning regulations with
3 regard to governmental uses of land. This authority shall be exercised by passage of a resolution
4 after a public hearing and a finding that the action is in the public interest.

5 (b) *Definitions.* For the purposes of this subtitle, the following definitions apply:

6 (1) *ADJOINING* MEANS LAND WHICH IS TOUCHING OR WOULD BE TOUCHING IN THE
7 ABSENCE OF AN INTERVENING UTILITY OR ROAD RIGHT-OF-WAY, OTHER THAN A
8 PRINCIPAL ARTERIAL HIGHWAY.

9 ~~[[1]]~~ (2) *Comprehensive zoning* means zoning:

- 10 (i) Involving both maps and regulations;
- 11 (ii) Which is legislative in nature;
- 12 (iii) Which concerns legislative facts;
- 13 (iv) Which is adopted after extensive study;
- 14 (v) Which covers a substantial area of the County; and
- 15 (vi) Which has an impact on the general welfare of the County in that it is
16 designed to control and direct the use of land and buildings according to
17 present and planned future conditions so as to accomplish, as far as
18 possible, the most appropriate uses of land consistent with the public
19 interest and the safeguarding of the interests of individual property owners.

20 (3) *DEPARTMENT* MEANS THE DEPARTMENT OF PLANNING AND ZONING.

21 ~~[[2]]~~ (4) *Development plan* means a development plan that, as provided in the zoning
22 regulations, the Zoning Board approves or disapproves.

23 ~~[[3]]~~ (5) *Piecemeal map amendment* means rezoning:

- 24 (i) Involving only zoning maps;
- 25 (ii) Which is quasi-judicial in nature;
- 26 (iii) Which concerns individual applications to change the zoning of particular
27 pieces of property; and
- 28 (iv) Is based on findings as to administrative facts regarding specific criteria
29 for change in zoning.

1 (c) *Short Title.* This subtitle may be cited as the "Zoning Enabling Act of Howard County."
2

3 **Section 16.201. [[Policy]] AUTHORITY.**

4 (a) *Piecemeal Map Amendments and Development Plan Approvals.* It is the intention of the
5 County Council of Howard County, in the enactment of this subtitle, to establish a legislative
6 agency of the County Council which shall be the Zoning Authority of Howard County for
7 piecemeal map amendments and for decisions on development plans. The Zoning Authority so
8 created shall be known as the Howard County Zoning Board and shall consist of the members of
9 the County Council. The Chairperson of the County Council may be the Chairperson of the
10 Zoning Board; the vice Chairperson of the County Council may be the vice Chairperson of the
11 Zoning Board. The County Council may, at its discretion, designate other members of the County
12 Council to be the Chairperson of the Zoning Board and vice Chairperson of the Zoning Board.
13 This shall be accomplished annually in December. An administrative assistant to the Zoning
14 Board shall be appointed by the Board.

15 (b) *Comprehensive Zoning and Zoning Text Matters.* It is also the intent of the County Council to
16 reserve [[all other zoning functions,]] comprehensive zoning and zoning text amendment matters
17 with the County Council of Howard County.
18

19 **Section 16.202. Purpose; ESTABLISHMENT OF ZONING DISTRICTS AND REGULATIONS.**

20 (A) *COUNTY COUNCIL AUTHORITY*

21 For the purpose of promoting the health, safety, morals and general welfare of Howard County,
22 the County Council is hereby empowered to regulate and restrict the height, number of stories
23 and size of buildings and other structures; THE LOCATION, CONSTRUCTION, ALTERATION AND USE
24 OF BUILDINGS AND OTHER STRUCTURES; the percentage of lot area that may be occupied BY
25 STRUCTURES; the size of yards, courts and other open spaces; the density of population; and the
26 location and use of [[buildings, structures and]] land for trade, industry, government, residence
27 or other purpose.
28

29 **[[Section 16.203. Adoption of zoning districts and zoning regulations by comprehensive**

1 **rezoning.]]**

2 ~~[[a]](B) (1)~~ *Establishment of districts and regulations.* For many or all of the purposes of this
3 subtitle, the County Council may divide the County into ZONING districts of a
4 number, shape and area as may be deemed best suited to carry out the purposes of
5 this subtitle. ~~[[In these districts it may regulate and restrict the erection,~~
6 ~~construction, reconstruction, alteration, repair or use of buildings.]]~~

7 (2) *Purpose of districts and regulations.* The ZONING district boundaries and
8 regulations shall be made in accordance with a comprehensive ZONING plan and
9 shall be designed TO:

- 10 (I) IMPLEMENT THE POLICIES AND GOALS OF THE GENERAL PLAN;
- 11 (II) PROMOTE HEALTH, SAFETY, AND THE GENERAL WELFARE;
- 12 (III) PROVIDE FOR THE BEST USE OF LAND AND THE STEWARDSHIP OF OUR
13 ENVIRONMENTAL RESOURCES;
- 14 ~~[[a. To lessen]](IV) LESSEN~~ congestion in the streets;
- 15 ~~[[b. To secure]](V) SECURE~~ safety from fire~~[[, panic]]~~ and other dangers;
- 16 ~~[[c. To promote health, safety and the general welfare;]]~~
- 17 ~~[[d. To provide]](VI) PROVIDE~~ adequate light and air;
- 18 ~~[[e. To provide for the best utilization of land;]]~~
- 19 ~~[[f. To avoid]](VII) AVOID~~ undue concentration of population; and
- 20 ~~[[g. To facilitate]](VIII) FACILITATE~~ the adequate provision of transportation,
21 water, sewerage, schools, parks and other public requirements.

22 (3) *Suitability and appropriateness.* The ZONING DISTRICT BOUNDARIES AND ZONING
23 regulations shall be made with reasonable consideration TO, among other things,
24 ~~[[to]]~~ the character of the ZONING district and its ~~[[particular]]~~ suitability for
25 particular uses AND TYPES OF DEVELOPMENT, and with a view to conserving ~~[[the]]~~
26 PROPERTY VALUES ~~[[value of buildings]]~~ and encouraging the most appropriate
27 use AND ENJOYMENT of land throughout the County BASED UPON THE PURPOSES,
28 POLICIES AND GOALS OF THE GENERAL PLAN.

29 (4) *Uniformity.* The ZONING regulations shall be uniform for each class or kind of

1 building or structure or use throughout each district, but the regulations in one
2 district may differ from those in other districts.

3
4 **SECTION 16.203. COMPREHENSIVE ZONING.**

5 ~~[[b)]~~ (A) The County Council, in order to fulfill its zoning purposes under this subtitle, may
6 from time to time, only upon its own petition or that of the Department of Planning and Zoning,
7 exercise the Zoning Authority of Howard County on a comprehensive basis, so as to adopt and
8 enact zoning regulations and district boundaries which shall apply to the entire geographic area
9 of Howard County or to substantial or significant portions thereof.

10 ~~[[c)]~~ (B) ~~[[Requirement for Planning Board Hearings on Initial Petition]]~~ DEPARTMENT OF
11 PLANNING AND ZONING AND PLANNING BOARD PROCEDURES.

12 (1) The Department of Planning and Zoning ~~{for the County Council}~~ shall prepare
13 ~~[[an initial]]~~ A petition for a comprehensive zoning plan, including ~~[[a]]~~ zoning
14 ~~[[map]]~~ MAPS and zoning regulations. ~~{The comprehensive petition may include~~
15 ~~map proposals from individual property owners.}~~

16 (2) PRIOR TO PREPARING THE PETITION FOR THE COMPREHENSIVE ZONING PLAN, THE
17 DEPARTMENT SHALL GIVE AT LEAST 60 DAYS' PUBLIC NOTICE OF ITS INTENT TO
18 COMPILE A COMPREHENSIVE ZONING PLAN. THE PUBLIC NOTICE SHALL:

- 19 (I) BE ADVERTISED WITHIN TWO NEWSPAPERS OF GENERAL CIRCULATION IN
20 HOWARD COUNTY;
- 21 (II) BE MADE AND APPROPRIATELY MAINTAINED IN A PROMINENT MANNER ON
22 THE COUNTY'S WEBSITE;
- 23 (III) BE SENT ELECTRONICALLY TO ALL INDIVIDUALS AND ORGANIZATIONS WHO
24 REGISTERED WITH THE DEPARTMENT;
- 25 (IV) SPECIFY THE DEADLINE BY WHICH REQUESTS FOR ZONING MAP AND ZONING
26 REGULATION AMENDMENTS MUST BE SUBMITTED; AND
- 27 (V) STATE THAT REQUESTS NOT SUBMITTED BY THE DEADLINE WILL NOT BE
28 CONSIDERED IN THE PREPARATION OF THE DEPARTMENT'S COMPREHENSIVE
29 ZONING PLAN.

1 [[~~(2)~~](3) ~~The~~ WITHIN 45 DAYS OF THE COMPREHENSIVE ZONING PETITION SUBMITTAL,

2 THE Department shall submit TO THE PLANNING BOARD FOR ITS CONSIDERATION:

3 [[the initial petition, along with a listing of map proposals from individual
4 property owners that it does not support, to the Planning Board for its
5 recommendations.]]

6 (I) THE PETITION WITH ITS RECOMMENDED ZONING MAPS AND ZONING
7 REGULATIONS;

8 (II) A TECHNICAL STAFF REPORT DETAILING THE SIGNIFICANT ISSUES OF THE
9 PROPOSED COMPREHENSIVE ZONING PLAN; AND

10 (III) A LIST OF ZONING MAP PROPOSALS RECEIVED FROM INDIVIDUAL PROPERTY
11 OWNERS THAT THE DEPARTMENT DOES NOT SUPPORT, ALONG WITH AN
12 EXPLANATION OF WHY EACH IS NOT SUPPORTED.

13 (4) FOR EACH ZONING MAP PROPOSAL THE DEPARTMENT SHALL, AT LEAST ~~15~~ 30 DAYS
14 BEFORE THE PLANNING BOARD HEARING:

15 (I) SEND WRITTEN NOTICE OF THE DATE, TIME, AND LOCATION OF THE HEARING BY
16 FIRST CLASS MAIL TO ALL OWNERS OF PROPERTY THAT IS THE SUBJECT OF A
17 REZONING PROPOSAL, OR WHOSE PROPERTY ADJOINS PROPERTY THAT IS THE
18 SUBJECT OF A REZONING PROPOSAL; AND

19 (II) POST THE PROPERTY WITH A SIGN LISTING THE DATE, TIME, AND LOCATION OF
20 THE HEARING, BUT PROVIDED THAT IF MULTIPLE, ADJOINING PROPERTIES ARE
21 THE SUBJECT OF ZONING MAP PROPOSALS, THE DEPARTMENT MAY POST SUCH
22 SIGNS AT INTERVALS IT DEEMS APPROPRIATE.

23 (5) NONCOMPLIANCE WITH THE NOTICE REQUIREMENTS OF PARAGRAPH (4) OF THIS
24 SUBSECTION DOES NOT CONSTITUTE A BASIS FOR SETTING ASIDE A ZONING DECISION.

25 [[~~(3)~~](6) The Planning Board shall:

26 [[a.]](i) Hold a public hearing on the petition and additional map proposals NOT
27 INCLUDED IN THE PETITION BY THE DEPARTMENT , at which interested
28 persons shall have a reasonable opportunity to be heard; and

29 [[b.]](ii) Give at least ~~30~~ 15 days' notice of the time and place of the

1 [[beginning of such]] PUBLIC hearing [[at least twice in a newspaper of
2 general circulation in Howard County]] ON THE COUNTY’S WEBSITE. Such
3 notice shall advise the general public [[of the availability at the
4 Department of Planning and Zoning of the petition; and of the listing of
5 map proposals from individual property owners that the Department does
6 not support.]][THAT THE COMPREHENSIVE ZONING PLAN DOCUMENTS ARE
7 AVAILABLE FOR REVIEW BOTH IN PERSON AT THE DEPARTMENT’S OFFICE
8 AND ONLINE AT A SPECIFIED WEBSITE;

9 [[(4) Individual property owners may, for up to 60 days following the completion of the
10 public hearing on the initial petition and other map proposals, submit new map
11 proposals to the Planning Board for its consideration.

12 (5) The Planning Board shall hold a public hearing on property owners' new map
13 proposals at which interested persons shall have a reasonable opportunity to be
14 heard.

15 a. The Planning Board shall give at least 30 days' notice of the time and place
16 of the initial hearing at least twice in a newspaper of general circulation in
17 Howard County; and.

18 b. The individual property owners shall send certified letters to all persons
19 whose property adjoins the property which is the subject of the proposal,
20 advising them of the map proposal and of the date, time and place of the
21 initial Planning Board hearing on the new map proposals.

22 c. For the purposes of this subtitle, *Adjoining*:

23 (i) Means adjoining as shown on the most recent Maryland
24 Department of Assessment and Taxation records; and

25 (ii) Includes those parcels which would be adjoining except for their
26 separation from the property which is the subject of the map
27 proposal by only a minor collector or local road.

28 d. For the purposes of this subtitle, all persons whose property is adjoining
29 the property which is the subject of the map proposal:

- (i) Includes an owners' association for properties held in common; and
- (ii) Does not include governmental agencies or cemeteries.

e. The Planning Board shall determine if compliance with the mailing requirements has been met and may postpone hearing an individual map proposal if there has not been compliance. If, at the time of a rescheduled hearing on an individual map proposal, there is still not compliance with the mailing requirements, the Planning Board may decide not to consider an individual map proposal; and

f. Noncompliance with the mailing requirements of subsection (b) above does not constitute a basis for setting aside of zoning decisions.]]

(III) CONSIDER REQUESTS FOR ZONING MAP AND ZONING REGULATION AMENDMENTS WHICH WERE RECEIVED ON OR BEFORE THE DEADLINE ESTABLISHED BY THE DEPARTMENT, BUT SHALL NOT CONSIDER SUBSEQUENT REQUESTS UNLESS THEY INVOLVE MODIFICATIONS TO MAP OR TEXT AMENDMENTS SUBMITTED PRIOR TO THE DEADLINE OR ARE PROPOSALS SUBMITTED BY THE DEPARTMENT; AND

[[(6)]] (IV) Submit WITHIN 60 DAYS OF THE PLANNING BOARD'S FIRST PUBLIC HEARING ON THE COMPREHENSIVE ZONING PETITION, SUBMIT its recommendations to the County Council.

[[(d)]] (C) *COUNTY COUNCIL PROCEDURES*

When exercising the Zoning Authority of Howard County with respect to the consideration and enactment of a comprehensive zoning plan, the County Council, notwithstanding any other sections, provisions or requirements of this subtitle or of other laws, regulations or rules of procedure, shall proceed in the following manner:

- (1) After the County Council has received a final report of the Planning Board recommending adoption of a comprehensive zoning PLAN, the County Council [[shall]] MAY hold one or more public hearings at which parties in interest and citizens shall have an opportunity to be heard on the comprehensive zoning [[petition]] PLAN PETITION SUBMITTED BY THE DEPARTMENT and THE Planning

1 Board RECOMMENDATIONS ~~[[report]]~~. The County Council ~~[[shall be prohibited~~
2 ~~from holding]]~~ MAY NOT HOLD meetings which include an opportunity for public
3 testimony on any day LISTED IN SECTION 6.305(B) OF THE THIS CODE. ~~[[on which~~
4 ~~Rosh Hashanah, Yom Kippur, Eid Ul Fitr , or Eid Ul Adha is observed.]]~~

5 (2) IF A ZONING MAP PROPOSAL THAT WAS NOT PART OF THE DEPARTMENT’S PETITION IS
6 INCORPORATED INTO THE PLANNING BOARD’S RECOMMENDATION, THE
7 DEPARTMENT SHALL, AT LEAST ~~15-30~~DAYS BEFORE THE COUNTY COUNCIL HEARING
8 ON THE COMPREHENSIVE ZONING PLAN:

9 (I) SEND WRITTEN NOTICE OF THE DATE, TIME, AND LOCATION OF THE HEARING BY
10 FIRST CLASS MAIL TO ALL OWNERS OF PROPERTY THAT IS THE SUBJECT OF A
11 REZONING PROPOSAL, OR WHOSE PROPERTY ADJOINS PROPERTY THAT IS THE
12 SUBJECT OF A REZONING PROPOSAL;

13 (II) POST THE PROPERTY WITH A SIGN LISTING THE DATE, TIME, AND LOCATION OF
14 THE HEARING, BUT PROVIDED THAT IF MULTIPLE, ADJOINING PROPERTIES ARE
15 THE SUBJECT OF ZONING MAP PROPOSALS, THE DEPARTMENT MAY POST SUCH
16 SIGNS AT INTERVALS IT DEEMS APPROPRIATE.

17 (3) NONCOMPLIANCE WITH THE NOTICE REQUIREMENTS OF PARAGRAPH (2) OF THIS
18 SUBSECTION DOES NOT CONSTITUTE A BASIS FOR SETTING ASIDE A ZONING DECISION.

19
20 ~~[[2]]~~(4) The County Council shall give at least ~~[[30]]~~15 days' notice of the time and
21 place of the ~~[[beginning of such]]~~ OF THE PUBLIC hearing ~~[[in at least twice in a~~
22 ~~newspaper of general circulation in Howard County]]~~ ON THE COUNTY’S WEBSITE.
23 Such notice shall advise the general public that the County Council is to consider
24 a comprehensive zoning plan for Howard County ~~[[, or a portion thereof,]]~~ and
25 shall advise the general public of the location or locations at which the entire text
26 and map or maps constituting the proposed comprehensive zoning plan may be
27 reviewed. THE NOTICE SHALL ALSO ADVISE THAT THE COMPREHENSIVE ZONING
28 PLAN DOCUMENTS ARE AVAILABLE FOR REVIEW BOTH IN PERSON AT THE
29 DEPARTMENT AND ONLINE AT A SPECIFIED WEBSITE. ~~[[No posting of any property~~

1 in Howard County shall be required with respect to the giving of notice with
2 respect to the commencement of the comprehensive zoning plan process.]]

3 ~~[[3]]~~(5) The County Council shall establish the specific procedures which shall govern
4 the hearing on the proposed comprehensive zoning plan. In establishing such
5 procedures, the Council may:

6 ~~[[a.]]~~(i) Place time limitations on presentations to be made;

7 ~~[[b.]]~~(ii) State the manner in which written materials may be submitted for
8 consideration by the County Council.

9 ~~(6) AT THE HEARING, THE COUNTY COUNCIL MAY ONLY CONSIDER REQUESTS FOR THE
10 REZONING OF PROPERTY OR PROPOSED REGULATION AMENDMENTS WHICH HAD
11 BEEN PREVIOUSLY EVALUATED BY THE PLANNING BOARD, BUT MAY CONSIDER
12 MODIFICATIONS INVOLVING MAP OR TEXT AMENDMENTS PREVIOUSLY CONSIDERED
13 BY THE PLANNING BOARD AND MODIFICATIONS SUBMITTED BY THE DEPARTMENT.~~

14 ~~[[4]]~~(7) Following ANY ~~[[the]]~~ public hearing(s) HELD BY THE COUNTY COUNCIL on
15 the comprehensive zoning petition, the County Council shall introduce a County
16 Council bill proposing the adoption of a comprehensive zoning ordinance which
17 shall include final proposed zoning regulations and maps.

18 ~~[[5]]~~ (8) ~~SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION THE~~ ~~[[The]]~~ THE County
19 Council shall adopt the comprehensive zoning plan by ordinance according to
20 County Council ~~[[bill]]~~ LEGISLATIVE procedures.

21 (98) ANY PROPOSED AMENDMENT TO THE PROPOSED ZONING MAP AS PART OF THE
22 ADOPTION OF A COMPREHENSIVE ZONING ORDINANCE WHICH WAS NOT PREVIOUSLY
23 PROPOSED, CONSIDERED OR RECOMMENDED BY THE DEPARTMENT OF PLANNING
24 AND ZONING OR THE PLANNING BOARD SHALL ONLY BE CONSIDERED BY THE
25 COUNTY COUNCIL UPON AN AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS
26 OF THE COUNCIL.

27 ~~[[6]]~~ Any proposed amendment to the proposed zoning map as part of the adoption of a
28 comprehensive zoning ordinance which was not previously proposed, considered
29 or recommended by the Department of Planning and Zoning, the Planning Board,

1 or the County Council would be considered as substantive and would require an
2 additional hearing(s).]]

3 [[(e) Reserved.]]

4 [[(f)]](9) The County Council shall provide for copies of the comprehensive zoning plan to be
5 published and made available at cost to any person.

6
7 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

8 **Subtitle 9. Planning Board.**

9
10 **Section 16.900. - Planning Board**

11 (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general
12 plan, the Planning Board shall hold at least one public hearing at which interested persons shall
13 be afforded a reasonable opportunity to be heard regarding the general plan. In addition, prior to
14 making recommendations to the County Council on adoption of comprehensive zoning, the
15 Planning Board shall hold at least one public hearing at which interested persons shall be
16 afforded a reasonable opportunity to be heard regarding the comprehensive zoning. In both cases,
17 at least ~~30~~15 days' notice of the time and place of the hearing shall be ON THE COUNTY'S
18 WEBSITE [[published at least twice in a newspaper of general circulation in the County]]. The
19 Planning Board may hold hearings on any matter pending before it and shall hold hearings upon
20 written request of the County Executive or on resolution of the County Council and as required
21 by law and regulations.

22
23
24 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
25 ***this Act shall become effective 61 days after its enactment.***