



City of Bowie

2614 Kenhill Drive
Bowie, Maryland 20715

MEMORANDUM

TO: City Council

FROM: David J. Deutsch
City Manager

SUBJECT: CB-41-2009
Delegation of Powers to Municipal Corporations

DATE: October 1, 2009

Staff has reviewed CB-41-2009 which would allow the governing body of a municipal corporation to exercise certain powers of the District Council, subject to certain limitations. This bill would enact locally the enabling provisions approved by the State Legislature in the 2005 Session and allow the County to delegate specific authority to municipalities for the following: (1) certain Detailed Site Plans; (2) Minor Revisions to Special Exception Site Plans; (3) Certification, Revocation, and Revision of Nonconforming Uses; and, (4) Vacation of Municipal Rights-of-Way. The County Council's Planning, Zoning and Economic Development (PZED) Committee, chaired by Council Member Samuel Dean, is expected to review the bill on October 7, 2009.

A separate County ordinance, in addition to CB-41-2009, would have to be approved to delegate any or all of the above powers to a municipal government. The City has already sent a copy of a draft ordinance to Council Members Turner and Dean indicating the City's interest in receiving authority to do all of the above.

Recommendation

Because CB-41-2009 will implement State law and provide the opportunity in County regulations for the District Council to delegate additional authority to municipal governments, it is recommended that the City send the attached letter to the County Council's PZED Committee requesting their FAVORABLE recommendation for the legislation.

Attachments

DRAFT

October 6, 2009

The Honorable Samuel H. Dean, Chairman
Planning, Zoning and Economic Development Committee
Prince George's County Council
County Administration Building, 2nd Floor
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

RE: CB-41-2009, Delegation of Powers to Municipal Corporations

Dear Council Member Dean:

The Bowie City Council supports CB-41-2009, as the legislation will implement provisions for additional municipal land use authority approved by the Maryland General Assembly in the 2005 Session. Please note that CB-41-2009 is entirely consistent with State enabling law and does not immediately result in the delegation of any land use authority currently retained by the District Council. A subsequent action of the District Council would be required to authorize a municipality in Prince George's County to exercise any of the powers identified in CB-41-2009, which include: (1) certain Detailed Site Plans; (2) Minor Revisions to Special Exception Site Plans; (3) Certification, Revocation, and Revision of Nonconforming Uses; and, (4) Vacation of Municipal Rights-of-Way.

We appreciate your consideration of this request and urge you to vote the bill out of Committee with a FAVORABLE recommendation as soon as possible. Thank you for the opportunity to comment on County legislation.

Sincerely,

Bowie City Council
G. Frederick Robinson
Mayor

PRINCE GEORGE'S COUNTY COUNCIL

AGENDA ITEM SUMMARY

2009 Legislative Session

Meeting Date: 9/29/2009

Reference No.: CB-41-2009

Draft No.: 1

Proposer(s): Dernoga

Sponsor(s):

Item Title: An Ordinance concerning Maryland –National Capital Park and Planning Commission – Prince George's County District Council – Delegation of Powers for the purpose of allowing the governing body of a municipal corporation to exercise certain powers of the district council, subject to certain limitations.

Drafter: Carmen N. Jackson-Brown, Legislative Officer

Resource: Judith Thacher, Legislative Aide

Personnel:

LEGISLATIVE HISTORY:

Date Presented: 9/29/2009

Executive Action: __/__/__

Committee Referral: 9/29/2009 PZED

Effective Date: __/__/__

Committee Action: __/__/__

Date Introduced: __/__/__

Public Hearing: __/__/__ :__ __

Council Action: __/__/__

Council Votes: MB:__, WC:__, SHD:__, TD:__, CE:__, AH:__, TK:__, EO:__, IT:__

Pass/Fail:

Remarks: _____

AFFECTED CODE SECTIONS:

27-924

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2009 Legislative Session**

Bill No. CB-41-2009
Chapter No. _____
Proposed and Presented by Council Member Dernoga
Introduced by _____
Co-Sponsors _____
Date of Introduction _____

ZONING BILL

1 AN ORDINANCE concerning
2 Maryland –National Capital Park and Planning Commission – Prince George’s County District
3 Council – Delegation of Powers

4 For the purpose of allowing the governing body of a municipal corporation to exercise certain
5 powers of the district council, subject to certain limitations.

6 BY repealing and reenacting with amendments:

7 Section 27-924
8 The Zoning Ordinance of Prince George's County, Maryland,
9 being also
10 SUBTITLE 27. ZONING.
11 The Prince George's County Code
12 (2007 Edition, 2008 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
14 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
15 District in Prince George's County, Maryland, that Sections 27-924 and 27-925 of the Zoning
16 Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's
17 County Code, be and the same are hereby repealed and reenacted with the following
18 amendments:

19 **SUBTITLE 27. ZONING.**
20 **PART 17. DELEGATION OF AUTHORITY.**

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

CODE INDEX TOPICS:

INCLUSION FILES/ZONING FIGURES:

DIVISION 2. MUNICIPAL CORPORATIONS.

Sec. 27-924. Powers of Municipalities.

(a) General.

(1) An incorporated municipality may enact an ordinance which sets forth procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the municipality[.], landscaping requirements, certification, revocation, and revision of nonconforming uses, vacation of municipal rights-of-way, and detailed site plans (except for detailed site plans where the zone requires detailed site plan approval by the District Council; that are required as a condition of approval of a zoning map amendment or preliminary plan of subdivision; for which the approval of a conceptual site plan or a preliminary plan of cluster subdivision is required; or that are required for designated parcels as a specific condition of a sectional map amendment).

(2) The municipality may not impose any standard or requirement stricter than those standards or requirements set forth in the Zoning Ordinance.

(3) The procedural regulations adopted by the municipality shall be set forth in a municipal ordinance.

(4) (A) Except as provided in Subparagraph (B), [T]the municipal ordinance shall provide that any person aggrieved by its decision who was a party to the proceeding before it may appeal to the Circuit Court which shall have the power to affirm the decision of the municipality or, if the decision is not in accordance with law, to remand the matter or to modify or reverse the decision.

(B) (i) Before exercising the right of appeal under Subparagraph (A), a party of record shall first appeal an action of the governing body of a municipal corporation under this section to the District Council for review on the record if the action concerns:

1. Certification, revocation, and revision of nonconforming uses; or

2. Detailed site plans.

(ii) On review, the district council may:

1. By majority vote of its members, approve the action of the municipal corporation; or

1 2. By a vote of at least six of its members, approve with conditions
 2 or overrule the action of the municipal corporation.

3 (iii) A person aggrieved by the action of the District Council under this
 4 paragraph may appeal to the Circuit Court.

5 (iv) For purposes of an appeal to the circuit court under subparagraph (iii)
 6 of this paragraph, the municipal corporation whose action is affected by the action of the District
 7 Council shall be considered an aggrieved person.

8 (5) The municipal ordinance shall not apply to any variance requests over which the
 9 District Council has retained jurisdiction pursuant to Section 27-239.03 of the Code.

10 (b) **Procedures.**

11 (1) Prior to adopting the ordinance, the municipality shall hold a duly advertised
 12 public hearing.

13 (2) The District Council shall hold a public hearing on the proposed municipal
 14 ordinance within sixty (60) days of its receipt. Notice of the time, date and place of the hearing
 15 shall be published at least one (1) time in the County newspapers of record, at least fourteen (14)
 16 days prior to the hearing date.

17 (3) Failure of the District Council to adopt the municipal ordinance shall be
 18 considered a disapproval thereof.

19 (4) The provisions of the Zoning Ordinance shall continue to apply within the
 20 municipality unless and until the District Council approves the proposed municipal ordinance.

21 (c) After the municipal ordinance is approved by the District Council, the municipality
 22 retains the right to elect not to exercise the power to approve variances and departures if it
 23 provides 60 days' notice of its intent to do so to the Clerk of the County Council and to the
 24 residents of the municipality. If the municipality chooses not to retain such powers, the
 25 provisions of the Zoning Ordinance will automatically apply within the municipality.

26 (CB-33-1998; CB-109-1998)

27 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-
 28 five (45) calendar days after its adoption.

Adopted this ____ day of _____, 2009.

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: _____
Marilynn M. Bland
Chairperson

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.