

Bill No.: _____

Requested: _____

Committee: _____

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Stored – 11/04/09

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By: **Prince George’s County Delegation and Montgomery County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Montgomery**
3 **County – Historic Property Exemption from Municipal Setback Regulations**

4 **PG/MC 103–10**

5 FOR the purpose of prohibiting certain municipal corporations in Montgomery County
6 from enacting ordinances or regulations applicable to side setback requirements
7 for historic properties; providing that certain municipal corporation ordinances
8 or regulations applicable to side setback requirements are not enforceable
9 against a historic property; defining a certain term; and generally relating to
10 side setback requirements for historic properties in Montgomery County in the
11 Maryland–Washington Regional District.

12 BY repealing and reenacting, with amendments,
13 Article 28 – Maryland–National Capital Park and Planning Commission
14 Section 8–115.1
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article 28 – Maryland–National Capital Park and Planning Commission**

2 8–115.1.

3 (a) Notwithstanding any other law or section of this article to the contrary,
4 the legislative body of a municipal corporation, as defined in § 8–104(c) of this title, in
5 Montgomery County may by ordinance or regulation, subject to the provisions of
6 subsections (b) [and], (c), **AND (D)** of this section, impose an additional or stricter
7 building requirement than is otherwise required by any State, regional, or county unit
8 that exercises zoning or planning authority over the municipal corporation, provided
9 such authority shall be exercised in addition to, but not in lieu of, the State, regional,
10 or county zoning or planning authority.

11 (b) A building requirement adopted under this section:

12 (1) Shall be imposed for the protection of the public health, safety, and
13 welfare, or for the preservation, improvement, or protection of lands, water, and
14 improvements in the municipal corporation; and

15 (2) May only regulate the construction, repair, erection, or remodeling
16 of single–family residential houses, buildings, or other structures on land zoned for
17 single–family residential use as it relates only to:

18 (i) Fences, walls, hedges, and similar barriers;

19 (ii) Signs;

20 (iii) Residential parking;

21 (iv) Residential storage;

22 (v) The location of structures, including setback requirements,
23 **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;**

24 (vi) The dimensions of structures, including height, bulk,
25 massing, and design; and

26 (vii) Lot coverage, including impervious surfaces.

1 (c) (1) An ordinance or regulation authorized by this section and enacted
2 by a municipal corporation shall provide a procedure for a waiver from the strict
3 application of the building requirements.

4 (2) Before adopting an ordinance or regulation authorized by this
5 section, a municipal corporation shall:

6 (i) Hold a public hearing; and

7 (ii) At least 30 days before the public hearing, transmit a copy of
8 the proposed ordinance or regulation to the Montgomery County Council.

9 **(D) (1) IN THIS SUBSECTION, “HISTORIC PROPERTY” MEANS A**
10 **PROPERTY REGULATED BY THE MONTGOMERY COUNTY HISTORIC**
11 **PRESERVATION COMMISSION ESTABLISHED UNDER TITLE 5, SUBTITLE 3 OF**
12 **THIS ARTICLE.**

13 **(2) THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION MAY**
14 **NOT ENACT AN ORDINANCE OR REGULATION APPLICABLE TO SIDE SETBACK**
15 **REQUIREMENTS FOR A HISTORIC PROPERTY.**

16 **(3) AN ORDINANCE OR REGULATION OF A MUNICIPAL**
17 **CORPORATION APPLICABLE TO SIDE SETBACK REQUIREMENTS IS NOT**
18 **ENFORCEABLE AGAINST A HISTORIC PROPERTY.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2010.