

Bill No.: \_\_\_\_\_

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

Drafted by: Anthony

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Stored – 01/30/09

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

## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Historic**  
3 **Property Exemption from Municipal Setback Regulations**4 **MC/PG 119–09**5 FOR the purpose of prohibiting certain municipal corporations from enacting  
6 ordinances or regulations applicable to side setback requirements for historic  
7 properties; providing that municipal corporation ordinances or regulations  
8 applicable to side setback requirements for historic properties are not  
9 enforceable; and generally relating to side setback requirements for historic  
10 properties in the Maryland–Washington Regional District.11 BY repealing and reenacting, with amendments,  
12 Article 28 – Maryland–National Capital Park and Planning Commission  
13 Section 8–115.1  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2008 Supplement)16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:18 **Article 28 – Maryland–National Capital Park and Planning Commission**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



19 8–115.1.

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

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

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

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

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

36 (ii) Signs;

37 (iii) Residential parking;

38 (iv) Residential storage;

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

41 (vi) The dimensions of structures, including height, bulk,  
 42 massing, and design; and

43 (vii) Lot coverage, including impervious surfaces.

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

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

(i) Hold a public hearing; and

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

**(D) (1) THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION MAY NOT ENACT AN ORDINANCE OR REGULATION APPLICABLE TO SIDE SETBACK REQUIREMENTS FOR A HISTORIC PROPERTY.**

**(2) AN ORDINANCE OR REGULATION OF A MUNICIPAL CORPORATION APPLICABLE TO SIDE SETBACK REQUIREMENTS FOR A HISTORIC PROPERTY IS NOT ENFORCEABLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.