

**FINAL**

AMENDED  
April 2, 2018

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2018, Legislative Day No. 5

Bill No. 18-18

Introduced by Mr. Peroutka, Chairman  
(by request of the County Executive)

By the County Council, March 5, 2018

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Introduced and first read on March 5, 2018  
Public Hearing set for and held on April 2, 2018  
Public Hearing on AMENDED bill set for and held on April 16, 2018  
Bill Expires June 8, 2018

By Order: JoAnne Gray, Administrative Officer

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A BILL ENTITLED

1 AN ORDINANCE concerning: Board of Appeals – Variances – Odenton Town Center –  
2 Zoning – Administrative Hearings – Special Exceptions  
3

4 FOR the purpose of repealing a provision providing for a variance in the Odenton Growth  
5 Management District; prohibiting the granting of a variance to the provisions of the  
6 Odenton Town Center Master Plan; adding special exception criteria for the Board of  
7 Appeals; providing for the construction and application of this Ordinance; adding  
8 additional criteria for special exceptions before the Administrative Hearing Officer;  
9 making certain technical and stylistic changes; making this Ordinance subject to a  
10 certain contingency; and generally relating to special exceptions.  
11

12 BY adding: § 3-1-208  
13 Anne Arundel County Code (2005, as amended)  
14

15 BY repealing and reenacting, with amendments: §§ 3-1-207(g); 18-2-101(b); and 18-16-  
16 304  
17 Anne Arundel County Code (2005, as amended)  
18

19 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
20 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Captions and taglines in **bold** in this bill are catchwords and are not law.  
Underlining indicates amendments to bill.  
~~Strikeover~~ indicates matter stricken from bill by amendment.

1                   **ARTICLE 3. BOARDS, COMMISSIONS AND SIMILAR BODIES**

2  
3                                   **TITLE 1. BOARD OF APPEALS**

4  
5           **3-1-207. Standards for granting variance.**

6  
7           (g) **Restrictions relating to the Odenton Growth Management District.** [In an  
8 Odenton Growth Management District, a variance may be granted from the provisions of  
9 this Code that are applicable to development under the standard method of development,  
10 except that a developer who obtained a minor modification from the Office of Planning  
11 and Zoning may not subsequently apply for a variance from the same provision.] A  
12 VARIANCE MAY NOT BE GRANTED TO THE PROVISIONS OF THE ODENTON TOWN CENTER  
13 MASTER PLAN.

14  
15           **3-1-208. Standards for granting special exceptions.**

16  
17           (A) **Requirements.** A SPECIAL EXCEPTION USE MAY BE GRANTED ONLY IF THE BOARD  
18 OF APPEALS MAKES EACH OF THE FOLLOWING AFFIRMATIVE FINDINGS:

19  
20                   (1) THE USE WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR  
21 WELFARE;

22  
23                   (2) THE LOCATION, NATURE, AND HEIGHT OF EACH BUILDING, WALL, AND FENCE,  
24 THE NATURE AND EXTENT OF LANDSCAPING ON THE SITE, AND THE LOCATION, SIZE,  
25 NATURE, AND INTENSITY OF EACH PHASE OF THE USE AND ITS ACCESS ROADS WILL BE  
26 COMPATIBLE WITH THE APPROPRIATE AND ORDERLY DEVELOPMENT OF THE DISTRICT IN  
27 WHICH IT IS LOCATED;

28  
29                   (3) OPERATIONS RELATED TO THE USE WILL BE NO MORE OBJECTIONABLE WITH  
30 REGARD TO NOISE, FUMES, VIBRATION, OR LIGHT TO NEARBY PROPERTIES THAN  
31 OPERATIONS IN OTHER USES ALLOWED UNDER THIS ARTICLE;

32  
33                   (4) THE USE AT THE LOCATION PROPOSED WOULD NOT HAVE ANY ADVERSE EFFECTS  
34 ABOVE AND BEYOND THOSE INHERENTLY ASSOCIATED WITH THE USE IRRESPECTIVE OF  
35 ITS LOCATION WITHIN THE ZONING DISTRICT;

36  
37                   (5) THE PROPOSED USE WILL NOT CONFLICT WITH AN EXISTING OR PROGRAMMED  
38 PUBLIC FACILITY, PUBLIC SERVICE, SCHOOL, OR ROAD;

39  
40                   (6) THE PROPOSED USE HAS THE WRITTEN RECOMMENDATIONS AND COMMENTS OF  
41 THE HEALTH DEPARTMENT;

42  
43                   (7) THE PROPOSED USE IS CONSISTENT WITH THE COUNTY GENERAL  
44 DEVELOPMENT PLAN;

45  
46                   (8) THE APPLICANT HAS PRESENTED SUFFICIENT EVIDENCE OF PUBLIC NEED FOR  
47 THE USE;

48  
49                   (9) THE APPLICANT HAS PRESENTED SUFFICIENT EVIDENCE THAT THE USE WILL  
50 MEET AND BE ABLE TO MAINTAIN ADHERENCE TO THE CRITERIA FOR THE SPECIFIC USE;

51  
52                   (10) THE APPLICATION WILL CONFORM TO THE CRITICAL AREA CRITERIA FOR  
53 SITES LOCATED IN THE CRITICAL AREA; AND

54  
55                   (11) THE ADMINISTRATIVE SITE PLAN DEMONSTRATES THE APPLICANT'S ABILITY  
56 TO COMPLY WITH THE REQUIREMENTS OF THE LANDSCAPE MANUAL.

1 (B) **Phasing of Development.** IF PHASING OF DEVELOPMENT IS PROPOSED FOR A USE  
2 ALLOWED BY SPECIAL EXCEPTION AND THE PLANNING AND ZONING OFFICER HAS  
3 APPROVED A PLAN FOR PHASING OF DEVELOPMENT, THE BOARD OF APPEALS MAY ALLOW  
4 PHASING PURSUANT TO THE APPROVED PLAN AS A CONDITION OF SPECIAL EXCEPTION  
5 APPROVAL.

## 6 7 ARTICLE 18. ZONING

### 8 9 TITLE 2. GENERAL PROVISIONS

#### 10 11 18-2-101. Scope; applicability.

12  
13 (b) Applicability to pending and future proceedings. Subject to the grandfathering  
14 provisions of COMAR Title 27, this article applies to all pending and future proceedings  
15 and actions of any board, department, or agency empowered to decide applications under  
16 this Code, except that:

17  
18 (1) an application for a special exception or variance filed on or before April 4,  
19 2005 shall be governed by the law as it existed prior to May 12, 2005 for the special  
20 exception or variance as approved;

21  
22 (2) an application for a special exception or variance filed before July 6, 2010 shall  
23 be governed by the law as it existed prior to November 22, 2010 for the special exception  
24 or variance as approved if the County approves an administrative waiver as stipulated in  
25 COMAR, Title 26 or the project is exempt from the administrative waiver process;

26  
27 (3) AN APPLICATION FOR A SPECIAL EXCEPTION FILED BEFORE THE EFFECTIVE  
28 DATE OF BILL NO. 18-18 SHALL BE GOVERNED BY THE LAW AS IT EXISTED PRIOR TO THE  
29 EFFECTIVE DATE OF BILL NO. 18-18;

30  
31 [(3)](4) development that falls within one of the exceptions set forth in § 17-2-  
32 101(b)(1) through (b)(5) of this Code shall be governed by the law relating to parking, lot  
33 size, width at the front building restriction line, coverage, setbacks, height limitations, and  
34 density that existed prior to May 12, 2005;

35  
36 [(4)](5) development that falls within one of the exceptions set forth in § 17-2-  
37 101(b)(6) or (b)(7) of this Code shall be governed by the law as it existed prior to July 6,  
38 2010 if the County approves an administrative waiver as stipulated in COMAR, Title 26  
39 or the project is exempt from the administrative waiver process;

40  
41 [(5)](6) subject to the election provisions of subsection [(7)](8), an application for a  
42 special exception or variance filed before November 19, 2012 shall be governed by the law  
43 as it existed prior to April 16, 2013 for the special exception or variance as approved;

44  
45 [(6)](7) subject to the election provisions of subsection [(7)](8), development that  
46 falls within one of the exceptions set forth in § 17-2-101(b)(8) or (b)(9) of this Code shall  
47 be governed by the law as it existed prior to April 16, 2013; and



1 of development, the Administrative Hearing Officer may allow phasing pursuant to the  
2 approved plan as a condition of special exception approval.

3  
4 ~~SECTION 2. And be it further enacted, That this Ordinance shall take effect 45 days~~  
5 ~~from the date it becomes law.~~

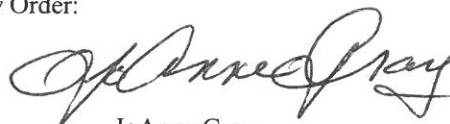
6  
7 SECTION 2. And be it further enacted, That all references in this Ordinance to “the  
8 effective date of Bill No. 18-18”, or words to that effect, shall, upon codification, be  
9 replaced with the actual date on which this Ordinance takes effect under Section 307 of the  
10 County Charter as certified by the Administrative Officer to the County Council.

11  
12 SECTION 3. And be it further enacted, That this Ordinance shall take effect 45 days  
13 from the date it becomes law, except that the addition of §§ 3-1-208(a)(7) and 18-16-  
14 304(a)(7) are contingent on the taking effect of an ordinance adopting the next General  
15 Development Plan by July 1, 2022, and if an ordinance adopting the next General  
16 Development Plan does not become effective by July 1, 2022, the addition of §§ 3-1-  
17 208(a)(7) and 18-16-304(a)(7) in this Ordinance shall be null and void without the  
18 necessity of further action by the County Council.

AMENDMENTS ADOPTED: April 2, 2018

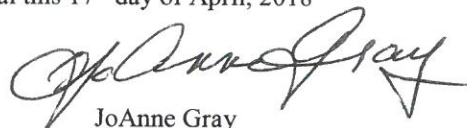
READ AND PASSED this 16<sup>th</sup> day of April, 2018

By Order:



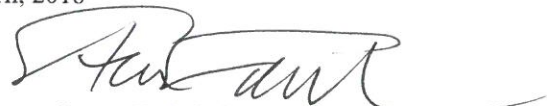
JoAnne Gray  
Administrative Officer

PRESENTED to the County Executive for his approval this 17<sup>th</sup> day of April, 2018



JoAnne Gray  
Administrative Officer

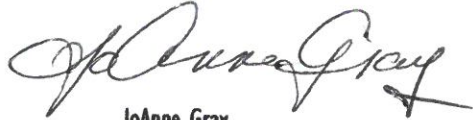
APPROVED AND ENACTED this 20<sup>th</sup> day of April, 2018



Steven R. Schuh  
County Executive

EFFECTIVE DATE: **JUN** 4 2018

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.  
18-18. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES  
OF THE COUNTY COUNCIL.

A handwritten signature in black ink, appearing to read "JoAnne Gray", with a stylized flourish at the end.

JoAnne Gray  
Administrative Officer