

(2) (i) Before exercising the right of appeal under paragraph (1) of this subsection, 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
2. By a vote of at least six of its members, approve with conditions or overrule the action of the municipal corporation.

(iii) A person aggrieved by the action of the district council under this paragraph may appeal to the circuit court.

(iv) For purposes of an appeal to the circuit court under subparagraph (iii) of this paragraph, the municipal corporation whose action is affected by the action of the district council shall be considered an aggrieved person. (1997, ch. 65; 2005, ch. 565.)

Effect of amendments. — Chapter 565, Acts 2005, effective October 1, 2005, substituted “paragraphs (2) and (3)” for “paragraph (3)” in (b)(1); added (b)(1)(vi) through (b)(1)(ix) and made related changes; added the (c)(1) designation and substituted “Except as provided in paragraph (2) of this subsection, any party of record” for “Any party”; and added (c)(2).

Bill review letter. — Chapter 565, Acts 2005 (House Bill 654) does not violate municipi-

pal home rule under the Maryland Constitution, as the bill does not purport to legislate on matters covered under Art. XI-E, Section 1 of the Maryland Constitution; rather, the bill amends Article 28, public general law relating to the Maryland-National Capital Park and Planning Commission, which already provides for the delegation of certain land use powers to municipal corporations in the Regional District. (Letter of the Attorney General dated March 1, 2005.)

§ 8-115.1. Building requirements in Montgomery County.

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

(b) *Purposes; applicability.* — A building requirement adopted under this section:

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

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

- (i) Fences, walls, hedges, and similar barriers;
- (ii) Signs;

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- (iii) Residential parking;
- (iv) Residential storage;
- (v) The location of structures, including setback requirements;
- (vi) The dimensions of structures, including height, bulk, massing, and design; and
- (vii) Lot coverage, including impervious surfaces.

(c) *Waiver; procedures.* — (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. (1992, ch. 573; 2006, ch. 611.)

Effect of amendments. — Chapter 611, “water” in (b)(1); deleted “and” at the end of Acts 2006, effective October 1, 2006, added (b)(2)(iv); and added (b)(2)(vi) and (vii).