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

Introduced and read first time: February 6, 2002
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2002

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County - Development Rights and Responsibilities**
3 **Agreements**
4 **PG/MC 113-02**

5 FOR the purpose of authorizing Prince George's County to enter into and amend
6 development rights and responsibilities agreements for advancing school
7 capacity; authorizing the District Council to establish procedures and
8 requirements for the consideration and execution of agreements and to approve
9 agreements negotiated by the County Executive; authorizing the County
10 Executive to negotiate and execute agreements for certain real property with
11 certain persons and to include certain government units as an additional party
12 to an agreement; ~~requiring~~ allowing a developer to petition the County
13 Executive requesting that an agreement be executed; providing for the effect of
14 agreements; prohibiting the County Executive from entering into an agreement
15 under certain circumstances; requiring that agreements include certain
16 provisions; allowing inclusion of additional provisions; requiring that any
17 extension be approved by the District Council; establishing that certain laws,
18 rules, regulations, and policies govern agreements under certain circumstances;
19 authorizing certain persons to amend or terminate agreements under certain
20 circumstances; providing for the effect of recording of an agreement under
21 certain circumstances; establishing the rights of parties to enforce an
22 agreement; defining certain terms; providing that this Act is self-executing; and
23 generally relating to development rights and responsibilities agreements in
24 Prince George's County.

25 BY adding to

1 Article 28 - Maryland-National Capital Park and Planning Commission
 2 Section 7-121.1
 3 Annotated Code of Maryland
 4 (1997 Replacement Volume and 2001 Supplement)

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

7 **Article 28 - Maryland-National Capital Park and Planning Commission**

8 7-121.1.

9 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 10 INDICATED.

11 (1) "DEVELOPER" MEANS A PERSON HAVING A LEGAL OR EQUITABLE
 12 INTEREST IN REAL PROPERTY LOCATED IN PRINCE GEORGE'S COUNTY.

13 (2) "DEVELOPMENT" MEANS ANY ACTIVITY, OTHER THAN NORMAL
 14 AGRICULTURAL ACTIVITY, WHICH MATERIALLY AFFECTS THE EXISTING CONDITION
 15 OR USE OF ANY LAND OR STRUCTURE.

16 (3) "DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT" OR
 17 "AGREEMENT" MEANS AN AGREEMENT, NEGOTIATED AND EXECUTED BY THE
 18 COUNTY EXECUTIVE OR THE COUNTY EXECUTIVE'S DESIGNEE, WITH THE APPROVAL
 19 OF THE DISTRICT COUNCIL, FOR THE PURPOSE OF ESTABLISHING CONDITIONS FOR
 20 ADVANCING SCHOOL CAPACITY.

21 (B) THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

22 ~~(C) THE DISTRICT COUNCIL MAY:~~

23 ~~(1) ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE~~
 24 ~~CONSIDERATION AND EXECUTION OF DEVELOPMENT RIGHTS AND~~
 25 ~~RESPONSIBILITIES AGREEMENTS, INCLUDING PROVISIONS FOR NEGOTIATION AND~~
 26 ~~APPROVAL IN ACCORDANCE WITH THIS SECTION; AND~~

27 ~~(2) APPROVE DEVELOPMENT RIGHTS AND RESPONSIBILITIES~~
 28 ~~AGREEMENTS NEGOTIATED BY THE COUNTY EXECUTIVE.~~

29 (C) A DEVELOPER OR DEVELOPER'S REPRESENTATIVE MAY PETITION THE
 30 COUNTY EXECUTIVE REQUESTING THAT AN AGREEMENT BE EXECUTED.

31 (D) THE COUNTY EXECUTIVE MAY:

32 (1) NEGOTIATE DEVELOPMENT RIGHTS AND RESPONSIBILITIES
 33 AGREEMENTS FOR REAL PROPERTY LOCATED IN THE COUNTY WITH A DEVELOPER;

34 (2) INCLUDE A FEDERAL, STATE, OR LOCAL GOVERNMENT OR UNIT AS
 35 AN ADDITIONAL PARTY TO THE AGREEMENT; AND

1 (3) ~~AFTER APPROVAL BY THE DISTRICT COUNCIL~~, EXECUTE AN
2 AGREEMENT ONLY AFTER ITS APPROVAL BY THE DISTRICT COUNCIL.

3 ~~(E) A DEVELOPER OR A DEVELOPER'S REPRESENTATIVE SHALL PETITION THE~~
4 ~~COUNTY EXECUTIVE REQUESTING THAT AN AGREEMENT BE EXECUTED.~~

5 (E) THE DISTRICT COUNCIL:

6 (1) MAY:

7 (I) ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE
8 CONSIDERATION AND EXECUTION OF DEVELOPMENT RIGHTS AND
9 RESPONSIBILITIES AGREEMENTS, INCLUDING PROVISIONS FOR NEGOTIATION AND
10 APPROVAL IN ACCORDANCE WITH THIS SECTION; AND

11 (II) APPROVE DEVELOPMENT RIGHTS AND RESPONSIBILITIES
12 AGREEMENTS NEGOTIATED BY THE COUNTY EXECUTIVE; AND

13 (2) SHALL REQUIRE A PUBLIC HEARING BEFORE APPROVING A
14 DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

15 (F) AN AGREEMENT EXECUTED BY THE COUNTY EXECUTIVE TAKES EFFECT
16 WITHOUT ANY FURTHER ACTION BY THE DISTRICT COUNCIL.

17 (G) THE COUNTY EXECUTIVE MAY NOT ENTER INTO AN AGREEMENT UNLESS
18 A PLANNING BOARD OF THE COMMISSION DETERMINES THAT THE PROPOSED
19 AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

20 (H) (1) AN AGREEMENT SHALL INCLUDE:

21 (I) A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE
22 AGREEMENT;

23 (II) THE PARTIES INVOLVED;

24 (III) THE SPECIFIC PURPOSES OF THE AGREEMENT;

25 (IV) THE DURATION OF THE AGREEMENT;

26 (V) A PHYSICAL DESCRIPTION AND LOCATION OF THE BUILDINGS,
27 STRUCTURES, AND SUPPORTING FACILITIES AND FEATURES ON THE REAL
28 PROPERTY;

29 (VI) A DESCRIPTION OF ALL ANTICIPATED PERMITS REQUIRED OR
30 ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;

31 (VII) PROVISIONS FOR THE CONSTRUCTION OR FINANCING OF
32 ADEQUATE PUBLIC FACILITIES FOR SCHOOLS;

1 (VIII) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS
2 CONSISTENT WITH THE COMMISSION'S GENERAL PLAN AND ALL APPLICABLE
3 DEVELOPMENT LAWS AND REGULATIONS; AND

4 (IX) A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS,
5 OR OTHER REQUIREMENTS DETERMINED BY A PLANNING BOARD TO BE NECESSARY
6 TO ENSURE THE PUBLIC HEALTH, SAFETY, AND WELFARE OF ITS CITIZENS.

7 (2) AN AGREEMENT MAY:

8 (I) ESTABLISH THE TERMS BY WHICH AND A PERIOD OF TIME
9 DURING WHICH AN APPROVED DEVELOPMENT, OR INDIVIDUAL PHASES, MUST
10 COMMENCE AND BE COMPLETED; AND

11 (II) PROVIDE FOR OTHER MATTERS CONSISTENT WITH THIS
12 ARTICLE.

13 (I) UNLESS OTHERWISE PROVIDED WITHIN THE AGREEMENT OR EXTENDED
14 BY AMENDMENT UNDER SUBSECTION (K) OF THIS SECTION, AN AGREEMENT SHALL
15 CONTAIN A DEFINITE PERIOD OF DURATION THAT IS DETERMINED BY THE PARTIES,
16 NOT EXCEEDING 15 YEARS. ANY EXTENSION MUST BE APPROVED BY THE DISTRICT
17 COUNCIL.

18 (J) THE LAWS, RULES, REGULATIONS, AND POLICIES IN FORCE AT THE TIME
19 THE PARTIES EXECUTE THE AGREEMENT SHALL GOVERN THE USE, DENSITY, OR
20 INTENSITY OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT UNLESS THE
21 ~~LOCAL GOVERNING BODY~~ DISTRICT COUNCIL OR STATE OR FEDERAL GOVERNMENT
22 DETERMINES THAT COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES
23 ENACTED OR ADOPTED AFTER THE PARTIES EXECUTED THE AGREEMENT IS
24 ESSENTIAL TO ENSURE THE HEALTH, SAFETY, OR WELFARE OF THE RESIDENTS OF
25 ALL OR PART OF THE JURISDICTION.

26 (K) THE PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY
27 MUTUAL CONSENT IF THE DISTRICT COUNCIL:

28 (1) APPROVES ANY SUBSTANTIAL MODIFICATION; AND

29 (2) DETERMINES THAT THE PROPOSED AMENDMENT TO THE
30 AGREEMENT IS CONSISTENT WITH THE COMMISSION'S GENERAL PLAN.

31 (L) (1) THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT
32 BY MUTUAL CONSENT.

33 (2) THE COUNTY EXECUTIVE MAY SUSPEND OR TERMINATE AN
34 AGREEMENT IF THE COUNTY EXECUTIVE DETERMINES THAT THE SUSPENSION OR
35 TERMINATION IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR
36 WELFARE.

1 (M) (1) AN AGREEMENT SHALL BE VOID IF NOT RECORDED IN THE LAND
2 RECORDS OFFICE OF PRINCE GEORGE'S COUNTY WITHIN ~~20~~ 30 DAYS AFTER THE
3 DATE ON WHICH THE PARTIES EXECUTE THE AGREEMENT.

4 (2) WHEN AN AGREEMENT IS RECORDED, THE PARTIES TO THE
5 AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO THE
6 AGREEMENT.

7 (N) UNLESS TERMINATED UNDER SUBSECTION (L) OF THIS SECTION, AN
8 AGREEMENT MAY BE ENFORCED BY THE PARTIES TO THE AGREEMENT OR THEIR
9 SUCCESSORS IN INTEREST, UTILIZING ALL REMEDIES AVAILABLE ~~BY~~ AT LAW OR IN
10 EQUITY. NO RIGHT TO AN ADMINISTRATIVE APPEAL ARISES FROM THE NEGOTIATION
11 OR ENFORCEMENT OF AN AGREEMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is self-executing
13 and shall take effect without any action required by the District Council for Prince
14 George's County.

15 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2002.