
By: **Delegates McMillan, Boschert, V. Clagett, Costa, Dwyer, Gilleland,
Leopold, McConkey, and Sophocleus**

Introduced and read first time: February 11, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Local Government - The Commonsense in Development Act - Application of**
3 **County Adequate Public Facilities Legislation to Municipalities**

4 FOR the purpose of providing that until a municipality adopts, implements, and
5 enforces certain adequate public facilities legislation, the municipality shall be
6 governed by certain county adequacy of public facilities legislation; requiring the
7 adequacy of public facilities legislation adopted by a municipality to meet
8 certain standards and requirements and address and make provision for certain
9 matters; providing for the application of this Act; providing that existing
10 obligations or contract rights may not be impaired by this Act; and generally
11 relating to the Commonsense in Development Act.

12 BY repealing and reenacting, without amendments,
13 Article 66B - Land Use
14 Section 10.01
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article 66B - Land Use
19 Section 10.02
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2004 Supplement)

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

24 **Article 66B - Land Use**

25 10.01.

26 (a) To encourage the preservation of natural resources or the provision of
27 affordable housing and to facilitate orderly development and growth, a local

1 jurisdiction that exercises authority granted by this article may enact, and is
2 encouraged to enact, ordinances or laws providing for or requiring:

3 (1) The planning, staging, or provision of adequate public facilities and
4 affordable housing;

5 (2) Off-site improvements or the dedication of land for public facilities
6 essential for a development;

7 (3) Moderately priced dwelling unit programs;

8 (4) Mixed use developments;

9 (5) Cluster developments;

10 (6) Planned unit developments;

11 (7) Alternative subdivision requirements that:

12 (i) Meet minimum performance standards set by the local
13 jurisdiction; and

14 (ii) Reduce infrastructure costs;

15 (8) Floating zones;

16 (9) Incentive zoning; and

17 (10) Performance zoning.

18 (b) Notwithstanding any other provision of law, a local legislative body that
19 exercises authority granted by this article may enact ordinances or laws providing for
20 the transfer, with or without consideration, of real property belonging to the local
21 jurisdiction to a public or private entity, to use in developing or preserving affordable
22 housing.

23 (c) The authority provided under this section is not intended to limit a local
24 jurisdiction's authority to:

25 (1) Exercise any planning and zoning powers not expressly authorized
26 under this section; or

27 (2) Adopt other methods to:

28 (i) Facilitate orderly development and growth;

29 (ii) Encourage the preservation of natural resources; or

30 (iii) Provide affordable housing.

1 10.02.

2 (A) UNTIL A MUNICIPALITY ADOPTS, IMPLEMENTS, AND ENFORCES
3 ADEQUATE PUBLIC FACILITIES LEGISLATION UNDER § 10.01 OF THIS SUBTITLE, THE
4 MUNICIPALITY SHALL BE GOVERNED BY THE ADEQUATE PUBLIC FACILITIES
5 LEGISLATION OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED.

6 (B) THE ADEQUATE PUBLIC FACILITIES ORDINANCE ADOPTED BY THE
7 MUNICIPALITY SHALL MEET THE MINIMUM STANDARDS AND REQUIREMENTS
8 SPECIFIED UNDER § 10.01 OF THIS SUBTITLE, INCLUDING ADDRESSING AND MAKING
9 PROVISION FOR THE IMPACT OF ANY DEVELOPMENT OR GROWTH WITHIN THE
10 MUNICIPALITY ON:

11 (1) PUBLIC SCHOOLS LOCATED IN THE COUNTY THAT WILL SERVE THAT
12 DEVELOPMENT OR GROWTH WITHIN THE MUNICIPALITY; AND

13 (2) STREETS, ROADS, AND HIGHWAYS LOCATED IN THE COUNTY
14 ADJACENT TO THE MUNICIPALITY THAT WILL BE AFFECTED BY THAT DEVELOPMENT
15 OR GROWTH WITHIN THE MUNICIPALITY.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed to apply retroactively and shall be applied to and interpreted to affect any
18 county adequate public facilities legislation enacted before October 1, 2005.

19 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding Section
20 2 of this Act, an obligation or contract right existing before the effective date of this
21 Act may not be impaired in any way by this Act.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2005.