

HOUSE BILL 711

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By: **Montgomery County Delegation and Prince George's County Delegation**
(By Request)

Introduced and read first time: February 8, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Open Space**
3 **Dedication – Fee in Lieu**

4 **MC/PG 120–07**

5 FOR the purpose of altering the basis for calculating a certain monetary fee, paid in
6 lieu of dedication of certain open spaces, to be used by the Maryland–National
7 Capital Park and Planning Commission to purchase open spaces under certain
8 conditions; and generally relating to subdivision regulations prepared by the
9 Maryland–National Capital Park and Planning Commission or the governing
10 body of either Montgomery or Prince George's counties.

11 BY repealing and reenacting, with amendments,
12 Article 28 – Maryland–National Capital Park and Planning Commission
13 Section 7–116(a)
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2006 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**

19 7–116.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In exercising the powers granted to it by § 7-115 of this title, the
2 Commission or the governing body of either county may prepare regulations and
3 amendments governing the subdivision of land within the regional district or the
4 respective portions of the regional district within Montgomery or Prince George's
5 County. The regulations and amendments shall be adopted by the respective
6 governing bodies of the counties, with whatever changes they consider appropriate,
7 and shall be effective from the date of adoption or from such other date the governing
8 body designates provided that such adoption does not affect in any manner the
9 administration of the regulations by the Commission or its functions under § 7-115 of
10 this title. In Montgomery County, on the adoption of any subdivision regulation or
11 amendment by the district council, the regulation or amendment shall be delivered
12 within 3 days to the County Executive who within 10 days thereafter shall approve or
13 disapprove the regulation or amendment. If the County Executive disapproves the
14 regulation or amendment, it shall be returned to the council with the reasons for the
15 disapproval stated in writing. The council, by the affirmative vote of 6 members, may
16 enact the regulation or amendment over the disapproval of the County Executive.
17 Failure of the County Executive to act within 10 days constitutes approval of the
18 regulation or amendment. The regulations may provide for (1) the harmonious
19 development of the district; (2) the coordination of roads within the subdivision with
20 other existing planned or platted roads or with other features of the district or with
21 the Commission's general plan or with any road plan adopted or approved by the
22 Commission as part of the Commission's general plan; (3) adequate open spaces for
23 traffic, recreation, light, and air, by dedication or otherwise, and the dedication to
24 public use or conveyance of areas designated for dedication under the provisions of the
25 zoning and subdivision regulations and for the payment of a monetary fee, in lieu of
26 dedication, [not to exceed 5 percent of the total new market value of the land, as
27 stated on the final assessment notice issued by the State Department of Assessments
28 and Taxation, that is the subject of an approved preliminary plan of subdivision]
29 **BASED ON THE CURRENT MARKET VALUE OF THE LAND AFTER THE LAND IS**
30 **APPROVED FOR DEVELOPMENT** to be used by the Commission to purchase open
31 spaces for the use and benefit of the subdivision in cases where dedication would be
32 impractical, provided that when, in the judgment of the Commission, suitable land is
33 not available for acquisition to serve the subdivision from which a fee has been
34 exacted, or if adequate open space has heretofore been acquired and is available to
35 serve the subdivision, then the Commission may use the fee collected in lieu of
36 dedication to develop or otherwise improve land or recreational facilities that will
37 assist in supplying the overall recreational needs of the subdivision, and further
38 provided that if the subdivision is in a municipality in Prince George's County that is
39 not within the metropolitan district but is within the regional district and when
40 requested by the municipality the mandatory fee in lieu of dedication received by the
41 Commission shall be paid to and used by the municipality either to purchase open
42 space for the use and benefit of the subdivision or to develop or otherwise improve land

1 or recreational facilities that will assist in supplying the overall recreational and open
2 space needs of the subdivision; (4) the reservation of lands for schools and other public
3 buildings and for parks, playgrounds, highways, roads, mass transit facilities,
4 including busways and light rail facilities, and other public purposes, provided no
5 reservation of land for traffic, recreation or any other public purposes as herein
6 provided shall continue for longer than three years without the written approval of all
7 persons holding or otherwise owning any legal or equitable interest in the property;
8 and provided further that the properties reserved for public use shall be exempt from
9 all State, county, and local taxes during the period; (5) the conservation of or
10 production of adequate transportation, water drainage and sanitary facilities; (6) the
11 preservation of the location of and the volume and flow of water in and other
12 characteristics of natural streams and other waterways, including the establishment
13 of a stormwater management program in Montgomery County which would allow the
14 county to accept monetary contributions, the granting of an easement, or the
15 dedication of land; (7) the avoidance of population congestion; (8) the avoidance of
16 scattered or premature subdivision of land as would involve danger or injury to health,
17 safety or welfare by reason of the lack of water supply, drainage, transportation or
18 other public services or necessitate an excessive expenditure of public funds for the
19 supply of services; (9) conformity of resubdivided lots to the character of lots within the
20 existing subdivision with respect to area, frontage, and alignment to existing lots and
21 streets; (10) control of subdivision or building (except for agricultural or recreational
22 purposes) in flood plain areas or streams and drainage courses, and on unsafe land
23 areas; (11) preservation of outstanding natural or cultural features and historic sites
24 or structures; or (12) other benefits to the health, comfort, safety or welfare of the
25 present and future population of the regional district. In Montgomery County, the
26 regulations may require the provision of adequate recreational facilities or, in lieu of
27 providing recreational facilities, payment of a fee not exceeding the cost of providing
28 adequate recreational facilities to serve the subdivision.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2007.