

# 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

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Committee Report: Favorable

House action: Adopted

Read second time: March 18, 2007

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## CHAPTER \_\_\_\_\_

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:

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1       **Article 28 – Maryland–National Capital Park and Planning Commission**

2       7–116.

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

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

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