

## **CHAPTER 428**

**(House Bill 711)**

AN ACT concerning

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

**MC/PG 120–07**

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

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

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

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

7–116.

(a) In exercising the powers granted to it by § 7–115 of this title, the Commission or the governing body of either county may prepare regulations and amendments governing the subdivision of land within the regional district or the respective portions of the regional district within Montgomery or Prince George’s County. The regulations and amendments shall be adopted by the respective governing bodies of the counties, with whatever changes they consider appropriate, and shall be effective from the date of adoption or from such other date the governing body designates provided that such adoption does not affect in any manner the administration of the regulations by the Commission or its functions under § 7–115 of this title. In Montgomery County, on the adoption of any subdivision regulation or

amendment by the district council, the regulation or amendment shall be delivered within 3 days to the County Executive who within 10 days thereafter shall approve or disapprove the regulation or amendment. If the County Executive disapproves the regulation or amendment, it shall be returned to the council with the reasons for the disapproval stated in writing. The council, by the affirmative vote of 6 members, may enact the regulation or amendment over the disapproval of the County Executive. Failure of the County Executive to act within 10 days constitutes approval of the regulation or amendment. The regulations may provide for (1) the harmonious development of the district; (2) the coordination of roads within the subdivision with other existing planned or platted roads or with other features of the district or with the Commission's general plan or with any road plan adopted or approved by the Commission as part of the Commission's general plan; (3) adequate open spaces for traffic, recreation, light, and air, by dedication or otherwise, and the dedication to public use or conveyance of areas designated for dedication under the provisions of the zoning and subdivision regulations and for the payment of a monetary fee, in lieu of dedication, [not to exceed 5 percent of the total new market value of the land, as stated on the final assessment notice issued by the State Department of Assessments and Taxation, that is the subject of an approved preliminary plan of subdivision] **BASED ON THE CURRENT MARKET VALUE OF THE LAND AFTER THE LAND IS APPROVED FOR DEVELOPMENT** to be used by the Commission to purchase open spaces for the use and benefit of the subdivision in cases where dedication would be impractical, provided that when, in the judgment of the Commission, suitable land is not available for acquisition to serve the subdivision from which a fee has been exacted, or if adequate open space has heretofore been acquired and is available to serve the subdivision, then the Commission may use the fee collected in lieu of dedication to develop or otherwise improve land or recreational facilities that will assist in supplying the overall recreational needs of the subdivision, and further provided that if the subdivision is in a municipality in Prince George's County that is not within the metropolitan district but is within the regional district and when requested by the municipality the mandatory fee in lieu of dedication received by the Commission shall be paid to and used by the municipality either to purchase open space for the use and benefit of the subdivision or to develop or otherwise improve land or recreational facilities that will assist in supplying the overall recreational and open space needs of the subdivision; (4) the reservation of lands for schools and other public buildings and for parks, playgrounds, highways, roads, mass transit facilities, including busways and light rail facilities, and other public purposes, provided no reservation of land for traffic, recreation or any other public purposes as herein provided shall continue for longer than three years without the written approval of all persons holding or otherwise owning any legal or equitable interest in the property; and provided further that the properties reserved for public use shall be exempt from all State, county, and local taxes during the period; (5) the conservation of or production of adequate transportation, water drainage and sanitary facilities; (6) the

preservation of the location of and the volume and flow of water in and other characteristics of natural streams and other waterways, including the establishment of a stormwater management program in Montgomery County which would allow the county to accept monetary contributions, the granting of an easement, or the dedication of land; (7) the avoidance of population congestion; (8) the avoidance of scattered or premature subdivision of land as would involve danger or injury to health, safety or welfare by reason of the lack of water supply, drainage, transportation or other public services or necessitate an excessive expenditure of public funds for the supply of services; (9) conformity of resubdivided lots to the character of lots within the existing subdivision with respect to area, frontage, and alignment to existing lots and streets; (10) control of subdivision or building (except for agricultural or recreational purposes) in flood plain areas or streams and drainage courses, and on unsafe land areas; (11) preservation of outstanding natural or cultural features and historic sites or structures; or (12) other benefits to the health, comfort, safety or welfare of the present and future population of the regional district. In Montgomery County, the regulations may require the provision of adequate recreational facilities or, in lieu of providing recreational facilities, payment of a fee not exceeding the cost of providing adequate recreational facilities to serve the subdivision.

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

**Approved by the Governor, May 8, 2007.**