

Introduced _____

Public Hearing _____

Council Action _____

Executive Action _____

Effective Date _____

County Council Of Howard County, Maryland

2010 Legislative Session

Legislative Day No. 2

Bill No. 4 -2010

Introduced by: The Chairperson at the request of the County Executive

AN ACT authorizing Howard County to enter into Development Rights and Responsibilities Agreements pursuant to the authority granted by Article 66B, Section 13.01 of the Annotated Code of Maryland; establishing procedures and requirements for the consideration and execution of such agreements; making certain provisions regarding petitions filed prior to the effective date of this Act; and generally related to Development Rights and Responsibilities Agreements.

Introduced and read first time _____, 2010. Ordered posted and hearing scheduled.

By order _____
Stephen Le Gendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2010.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2010 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2010 at ____ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2010

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that new
2 Subtitle 17 “Development Rights and Responsibilities Agreements” is added to Title 16
3 “Planning, Zoning and Subdivisions and Land Development Regulations” of the Howard
4 County Code to read as follows:
5

6 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

7 **SUBTITLE 17. DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.**

8
9 **SECTION 16.1700. PURPOSE.**

10 THE PURPOSE OF THIS SUBTITLE IS TO PROTECT THE PUBLIC HEALTH, SAFETY, AND
11 WELFARE BY ENACTING THE AUTHORITY GRANTED BY SECTION 13.01 OF ARTICLE 66B OF
12 THE ANNOTATED CODE OF MARYLAND RELATING TO DEVELOPMENT RIGHTS AND
13 RESPONSIBILITIES AGREEMENTS AND ESTABLISHING PROCEDURES FOR SUCH AGREEMENTS
14 IN ACCORDANCE WITH THE PROVISIONS OF THE STATE CODE.
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16 **SECTION 16.1701. DEFINITIONS.**

17 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

18 (A) *AGREEMENT* MEANS A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

19 (B) *DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT* MEANS AN AGREEMENT
20 BETWEEN A GOVERNMENT BODY OF A JURISDICTION AND A PERSON HAVING A LEGAL OR
21 EQUITABLE INTEREST IN REAL PROPERTY FOR THE PURPOSE OF ESTABLISHING CONDITIONS
22 UNDER WHICH DEVELOPMENT MAY PROCEED FOR A SPECIFIED TIME.

23 (C) *PETITIONER* MEANS A PERSON HAVING A LEGAL OR EQUITABLE INTEREST IN REAL
24 PROPERTY SUBJECT TO THE AGREEMENT, OR THE PERSON’S REPRESENTATIVE.

25 (D) *PLAN* MEANS A GENERAL PLAN OR MASTER PLAN AS DEFINED IN THE STATE CODE.

26 (E) *PLANNING BOARD* MEANS THE HOWARD COUNTY PLANNING BOARD.

27 (F) *STATE CODE* MEANS ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND.
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29 **SECTION 16.1702. APPLICABILITY.**

30 ANY PETITIONER MAY PETITION THE COUNTY EXECUTIVE AND COUNTY COUNCIL TO ENTER
31 INTO AN AGREEMENT.

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SECTION 16.1703. CONTENTS OF DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS.

(A) AN AGREEMENT SHALL INCLUDE:

- (1) A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE AGREEMENT;
- (2) THE NAMES OF THE PERSONS HAVING A LEGAL OR EQUITABLE INTEREST IN THE REAL PROPERTY SUBJECT TO THE AGREEMENT;
- (3) THE DURATION OF THE AGREEMENT;
- (4) THE PERMISSIBLE USES OF THE REAL PROPERTY;
- (5) THE DENSITY OR INTENSITY OF THE USE OF THE REAL PROPERTY;
- (6) THE MAXIMUM HEIGHT AND SIZE OF STRUCTURES TO BE LOCATED ON THE REAL PROPERTY;
- (7) A DESCRIPTION OF THE PERMITS REQUIRED OR ALREADY APPROVED FOR THE DEVELOPMENT OF THE REAL PROPERTY;
- (8) A STATEMENT THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE PLAN AND DEVELOPMENT REGULATIONS OF HOWARD COUNTY;
- (9) A DESCRIPTION OF THE CONDITIONS, TERMS, RESTRICTIONS, OR OTHER REQUIREMENTS DETERMINED BY THE GOVERNING BODY OF HOWARD COUNTY TO BE NECESSARY TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE; AND
- (10) TO THE EXTENT APPLICABLE, PROVISIONS FOR THE:
 - (I) DEDICATION OF A PORTION OF THE REAL PROPERTY FOR PUBLIC USE;
 - (II) PROTECTION OF SENSITIVE AREAS;
 - (III) PRESERVATION AND RESTORATION OF HISTORIC STRUCTURES; AND
 - (IV) CONSTRUCTION OR FINANCING OF PUBLIC FACILITIES.

(B) AN AGREEMENT MAY:

- (1) FIX THE TIME FRAME AND TERMS FOR DEVELOPMENT AND CONSTRUCTION ON THE REAL PROPERTY; AND
- (2) PROVIDE FOR OTHER MATTERS CONSISTENT WITH THIS SUBTITLE.

1 **SECTION 16.1704. PROCEDURES.**

2 (A) BEFORE ENTERING AN AGREEMENT, THE PETITIONER SHALL PETITION THE COUNTY
3 EXECUTIVE AND COUNTY COUNCIL TO ENTER INTO THE AGREEMENT.

4 (B) AN AGREEMENT MAY BE EXECUTED BY THE COUNTY EXECUTIVE ONLY AFTER:

5 (1) A PUBLIC MEETING BEFORE THE PLANNING BOARD AND A
6 RECOMMENDATION BY THE PLANNING BOARD THAT THE PROPOSED
7 AGREEMENT IS CONSISTENT WITH THE PLAN; AND

8 (2) A PUBLIC HEARING BEFORE THE COUNTY COUNCIL AND APPROVAL OF A
9 RESOLUTION AUTHORIZING THE EXECUTION OF THE AGREEMENT.

10 (C) EXCEPT FOR A TERMINATION UNDER SECTION 16.1706(A) OF THIS SUBTITLE, WHEN THIS
11 SUBTITLE REQUIRES AN ACTION BY THE COUNTY COUNCIL AND THE COUNTY EXECUTIVE,
12 THE APPROVAL OF THE COUNTY COUNCIL, OR THE CONSENT OF THE PARTIES, THE ACTION
13 OR THE COUNTY'S CONSENT SHALL BE EXPRESSED THROUGH COUNCIL APPROVAL OF A
14 RESOLUTION RECOMMENDED BY THE COUNTY EXECUTIVE.

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16 **SECTION 16.1705. AMENDMENTS OF AGREEMENTS.**

17 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND AFTER A PUBLIC HEARING, THE
18 PARTIES TO AN AGREEMENT MAY AMEND THE AGREEMENT BY MUTUAL CONSENT.

19 (B) UNLESS THE PLANNING BOARD DETERMINES THAT THE PROPOSED AMENDMENT TO THE
20 AGREEMENT IS CONSISTENT WITH THE PLAN, THE PARTIES MAY NOT AMEND THE
21 AGREEMENT.

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23 **SECTION 16.1706. TERMINATION OF AGREEMENTS; SUSPENSION; TIME LIMITATIONS.**

24 (A) THE PARTIES TO AN AGREEMENT MAY TERMINATE THE AGREEMENT BY MUTUAL
25 CONSENT.

26 (B) IF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL DETERMINE THAT SUSPENSION
27 OR TERMINATION IS ESSENTIAL TO ENSURE THE PUBLIC HEALTH, SAFETY, OR WELFARE, THE
28 COUNTY EXECUTIVE AND COUNTY COUNCIL MAY SUSPEND OR TERMINATE AN
29 AGREEMENT AFTER A PUBLIC HEARING.

30 (C) AN AGREEMENT SHALL BE VOID 5 YEARS AFTER THE DAY ON WHICH THE PARTIES
31 EXECUTE THE AGREEMENT UNLESS THE DURATION OF THE AGREEMENT IS:

- 1 (1) OTHERWISE ESTABLISHED IN THE AGREEMENT; OR
2 (2) EXTENDED BY AMENDMENT UNDER SECTION 16.1705 OF THIS SUBTITLE.

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4 **SECTION 16.1707. APPLICABLE LAWS, REGULATIONS, AND POLICIES.**

5 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LAWS, RULES,
6 REGULATIONS, AND POLICIES GOVERNING THE USE, DENSITY, OR INTENSITY OF THE REAL
7 PROPERTY SUBJECT TO THE AGREEMENT SHALL BE THE LAWS, RULES, REGULATIONS, AND
8 POLICIES IN FORCE AT THE TIME THE PARTIES EXECUTE THE AGREEMENT.

9 (B) IF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL DETERMINE THAT
10 COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES ENACTED OR ADOPTED
11 AFTER THE EFFECTIVE DATE OF THE AGREEMENT IS ESSENTIAL TO ENSURE THE HEALTH,
12 SAFETY, OR WELFARE OF RESIDENTS OF ALL OR PART OF THE COUNTY, AN AGREEMENT
13 MAY NOT PREVENT HOWARD COUNTY FROM REQUIRING A PERSON TO COMPLY WITH THOSE
14 LAWS, RULES, REGULATIONS, OR POLICIES.

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16 **SECTION 16.1708. RECORDING.**

17 (A) THE PETITIONER SHALL RECORD AN AGREEMENT IN THE LAND RECORDS OF HOWARD
18 COUNTY WITHIN 20 DAYS AFTER THE DAY ON WHICH THE PARTIES EXECUTED THE
19 AGREEMENT AND AN AGREEMENT THAT IS NOT RECORDED WITHIN 20 DAYS IS VOID.

20 (B) THE PARTIES TO THE AGREEMENT AND THEIR SUCCESSORS IN INTEREST ARE BOUND TO
21 THE AGREEMENT AFTER THE AGREEMENT IS RECORDED.

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23 **SECTION 16.1709. ENFORCEMENT BY INTERESTED PARTIES.**

24 UNLESS THE AGREEMENT IS TERMINATED UNDER SECTION 16.1706 OF THIS SUBTITLE, THE
25 PARTIES TO AN AGREEMENT OR THEIR SUCCESSORS IN INTEREST MAY ENFORCE THE
26 AGREEMENT.

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28 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
29 *Maryland, that a petition for approval of a Development Rights and Responsibilities*
30 *Agreement filed on or after February 1, 2010, but before the effective date of this Act:*

- 1 A. *May be considered and processed by the County before the effective date of this*
2 *Act;*
- 3 B. *Shall not be approved by the County Council before the effective date of this Act;*
4 *and*
- 5 C. *Any public meeting held and recommendation made by the Planning Board*
6 *before the effective date of this Act is hereby ratified and validated upon the*
7 *effective date of this Act.*

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9 ***Section 3. And Be It Further Enacted*** *by the County Council of Howard County,*
10 *Maryland, that this Act shall become effective 61 days after its enactment.*